



भारत का राजपत्र The Gazette of India

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सं० 14]

नई दिल्ली, शनिवार, अप्रैल 5, 1997/चैत्र 15, 1919

No. 14]

NEW DELHI, SATURDAY, APRIL 5, 1997/CHAITRA 15, 1919

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

विधि और न्याय मंत्रालय
(विधि कार्य विभाग)
(न्यायिक अनुभाग)
सूचना

MINISTRY OF LAW AND JUSTICE
(Department of Legal Affairs)
(Judicial Section)

NOTICE

New Delhi, the 17th March, 1997

का.आ. 884.—नोटरीज नियम, 1956 के नियम 6 के
अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है
कि श्री राम मनेही मिश्र, एडवोकेट ने उक्त प्राधिकारी को
उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात
के लिए दिया है कि उसे एटा जिला (उत्तर प्रदेश) में
व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी
भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन
भीतर निश्चित रूप से मेरे पास भेजा जाए।

S.O. 884.—Notice is hereby given by the Competent
Authority in pursuance of Rule 6 of the Notaries Act, 1956
that application has been made to the said Authority, under
Rule 4 of the said Rules, by Shri Ram Sanehi Mishra, Advoca-
te for appointment as a Notary to practise in Etah Distt.
(U.P.).

2. Any objection to the appointment of the said person
as a Notary may be submitted in writing to the undersigned
within fourteen days of the publication of this notice.

[सं. 5(50)/97-न्यायिक]

एन. सी. जैन, सक्षम प्राधिकारी एवं अपर विधि सलाहकार

[No. F. 5(50)/97-JudL]

N. C. JAIN, Competent Authority & Addl. Legal Adviser

सूचना

नई दिल्ली, 17 मार्च, 1997

का.आ.885.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री मोहन लाल मोदी, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे बीकानेर (राजस्थान) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(51)/97-न्यायिक]

एन. सी. जैन, सक्षम प्राधिकारी एवं अपर विधि सलाहकार

NOTICE

New Delhi, the 17th March, 1997

S.O. 885.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority under Rule 4 of the said Rules, by Shri Mohan Lal Modi, Advocate for appointment as a Notary to practise in Bikaner (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(51)/97-Judl.]

N. C. JAIN, Competent Authority & Addl. Legal Adviser

सूचना

नई दिल्ली, 17 मार्च, 1997

का.आ.886.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री दिनेश चन्द्र, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे शाहदरा क्षेत्र (राष्ट्रीय राजधानी दिल्ली) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(52)/97-न्यायिक]

एन. सी. जैन, सक्षम प्राधिकारी, एवं अपर विधि सलाहकार

NOTICE

New Delhi, the 17th March, 1997

S.O. 886.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Dinesh Chandra, Advocate for appointment as a Notary to practise in Shahdara Area, N.C.T. of Delhi.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[N. F. 5(52)/97-Judl.]

N. C. JAIN, Competent Authority & Addl. Legal Adviser

सूचना

नई दिल्ली, 17 मार्च, 1997

का.आ.887.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री राम रतन यादव एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे बहरोड़, जिला अलवर (राजस्थान) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. 5(53)/97-न्यायिक]

एन.सी. जैन, सक्षम प्राधिकारी, एवं अपर विधि सलाहकार

NOTICE

New Delhi, the 17th March, 1997

S.O. 887.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Ram Ratan Yadav, Advocate for appointment as a Notary to practise in Behror (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(53)/97-Judl.]

N. C. JAIN, Competent Authority & Addl. Legal Adviser

कार्मिक, लोक शिकायत तथा पेन्शन मंत्रालय

(कार्मिक तथा प्रशिक्षण विभाग)

नई दिल्ली, 18 मार्च, 1997

का.आ.888.—दण्ड प्रक्रिया संहिता 1973 (1974 का अधिनियम संख्या 2) की धारा 24 की उपधारा (8) के प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना के नियमित मामला संख्या 1(ए)/1995-ए.सी.यू.-6 के फौजदारी मुकदमों में अभियोजन का संचालन विशेष न्यायाधीश के न्यायालय तथा उच्च न्यायालय एवं भारत के सर्वोच्च न्यायालय में करने हेतु श्री के. एन. शर्मा और आर. के. वर्मा एडवोकेट को विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[संख्या 225/5/97-एवीडी-II]

हरि सिंह, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCE AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 18th March, 1997

S.O. 888.—In exercise of the powers conferred by Section 24(8) of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints S/Shri K. N. Sharma and R. K. Verma, Advocates as Special Public Prosecutor for conducting Criminal Case RC. 1(A)/95/ACU(VI) of Delhi Special Police Establishment in the Court of Special Judge and also in the High Court and Supreme Court of India at New Delhi.

[No. 225/5/97-AVD-II]

HARI SINGH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

(मुख्यालय स्थापना)

नई दिल्ली, 28 अगस्त, 1996

का.आ. 889.—केन्द्रीय राजस्व बोर्ड अधिनियम, 1963 (1963 का 54) की धारा 3 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार भारतीय राजस्व सेवा (सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क) के अधिकारी श्री डी.एस. सोलंकी को वित्त मंत्रालय, राजस्व, केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क बोर्ड में दिनांक 27 अगस्त, 1996 की पूर्वाह्न से और अगला आदेश होने तक सदस्य नियुक्त करते हैं।

2. श्री डी.एस. सोलंकी की केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क बोर्ड के सदस्य के पद पर नियुक्ति, केन्द्रीय प्रशासनिक अधिकरण, इलाहाबाद पीठ, इलाहाबाद में श्री बी.पी. वर्मा द्वारा दायर की गई वर्ष 1996 के मूल आवेदन सं. 667 के अन्तिम निर्णय के अधीन होगी।

[फा.सं. ए/19011/13/96-प्रशा. I]

एच.एम. चौधरी, उप सचिव

MINISTRY OF FINANCE

(Department of Revenue)

(Headquarters Establishment)

New Delhi, the 28th August, 1996

S.O. 889.—In exercise of the powers conferred by sub-section (2) of Section 3 of the Central Board of Revenue Act, 1963 (No. 54 of 1963), the Central Government hereby appointed Shri D.S. Solanki, an Officer of Indian Revenue Service (Customs & Central Excise) as Member of the Central Board of Excise & Customs, Department of Revenue, Ministry of Finance with effect from the afternoon of the 27th August, 1996 and until further orders.

2. The appointment of Shri D. S. Solanki to the post of Member, Central Board of Excise & Customs is subject to the final outcome of the Original Application No. 667 of 1996 filed by Shri B. P. Verma in the Central Administrative Tribunal, Allahabad Bench Allahabad.

[F. No. A-19011/13/96-Ad. I]

H. M. CHOUDHURY, Dy. Secy.

राजस्व विभाग

नई दिल्ली, 7 मार्च, 1997

का.आ. 890.—केन्द्रीय सरकार, केन्द्रीय राजस्व बोर्ड अधिनियम, 1963 (1963 की सं. 54) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय सीमाशुल्क एवं केन्द्रीय उत्पादशुल्क सेवा के अधिकारी, श्री बी.पी. वर्मा को दिनांक

7 मार्च, 1997 से अगले आदेशों तक केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क बोर्ड में सदस्य नियुक्त करते हैं।

[फा. सं. ए-19011/1/97-प्रशा.-I]

प्यारे लाल, अवर सचिव

(Department of Revenue)

New Delhi, the 7th March, 1997

S.O. 890.—In exercise of the powers conferred by sub-section (1) of Section 4 of the Central Board of Revenue Act, 1963 (No. 54 of 1963), the Central Government hereby appoints Shri B. P. Verma, an Officer of Indian Customs and Central Excise Service as Member of the Central Board of Excise and Customs with effect from 7th March, 1997 and until further orders.

[F. No. A-19011/1/97-Ad.I]

PYARE LAL, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 18 मार्च, 1997

का. आ. 891.—भारतीय स्टेट बैंक (अनुशांगी बैंक) अधिनियम 1959 (1959 का 38) की धारा 26 की उपधारा (2क) के साथ पठित धारा 25 की उपधारा (1) के खंड (गक) के अनुसरण में, केन्द्रीय सरकार, एतद्द्वारा, स्टेट बैंक आफ लावणकोर, आडवे शाखा, एर्नाकुलम में लिपिक, श्री के. श्रीनिवासन को दिनांक 19 मार्च, 1997 से 18 मार्च,

2000 तक तीन वर्ष की अवधि के लिए या उनके स्टेट बैंक ऑफ़ त्रावणकोर में कर्मचारी रहने तक, जो भी पहले हो, स्टेट बैंक ऑफ़ त्रावणकोर के निदेशक बोर्ड में निदेशक के रूप में नियुक्त करती है।

[सं. 15/5/96-आई आर]

डा. परमजीत सिंह सिद्धू, उप सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 18th March, 1997

S.O. 891.—In pursuance of Clause (ca) of sub-section (1) of Section 25 read with sub-section (2A) of Section 26 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), the Central Government here appoints Shri K. Srinivasan, Clerk, State Bank of Travancore, Broadway Branch, Ernakulam as a Director on the Board of Directors of State Bank of Travancore for a period of three years with effect from 19th March, 1997 to 18th March, 2000 or until he cease to be an employee of State Bank of Travancore whichever is earlier.

[F. No. 15/5/96-L.R.]

DR. PARAMJIT SINGH SIDHU, Dy. Secy.

कार्यालय आयुक्त, केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क

इन्दौर, 18 मार्च, 1997

का०आ० 892.—आयुक्त कार्यालय, केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क, इन्दौर के निम्नलिखित समूह "ख" अधिकारी निवर्तन आयु प्राप्त करने पर उनके नाम के आगे दर्शाए गए दिनांक से शासकीय सेवा से निवृत्त हुए :—

क्रम	अधिकारी का नाम	पदनाम	निवर्तन आयु प्राप्त करने पर सेवानिवृत्ति की तारीख
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|----|---------------------|-------------------|--------------------|
| 1. | श्री एम.के. जैन | अधीक्षक | 28-02-97 (अपराह्न) |
| 2. | श्री एच.जे. भोजवानी | प्रशासनिक अधिकारी | 28-2-97 (अपराह्न) |

[फ. सं. 11(3)9-गोप/93]

अशोक कुमार गुप्ता, उप आयुक्त (कार्मिक एवं सतर्कता)

OFFICE OF THE COMMISSIONER OF CENTRAL
EXCISE AND CUSTOMS

Indore, the 18th March, 1997

S.O. 892.—The following Group 'B' Officers of Office of the Commissioner of Central Excise and Customs, Indore having attained the age of superannuation retired from Gov-

ernment Service from the dates as shown against their names :—

S.No.	Name of the Officer	Designation	Date of retirement superannuation
01	Shri M.K. Jain	Superintendent	28-2-97 (AN)
02	Shri H.J. Bhojwani	Administrative Officer	28-2-97 (AN)

[F. No. 11(3)9-Con/93]

ASHOK KUMAR GUPTA, Dy. Commissioner (P&V)

उद्योग मंत्रालय

(भारी उद्योग विभाग)

नई दिल्ली, 4 मार्च, 1997

का.आ. 893.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में निम्नलिखित कार्यालय को, जिसके 80 प्रतिशत कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

- (1) भारत हेवी इलेक्ट्रिकल्स लिमिटेड,
पावर सेक्टर—पी ई एम,
बी.एच.ई.एल. हाउस,
सिरीफोर्ट, नई दिल्ली-110 049

[सं. ई-11012(1)/92-हिन्दी]

पंकज अग्रवाल, उप सचिव

MINISTRY OF INDUSTRY

(Department of Heavy Industry)

New Delhi, the 4th March, 1997

S.O. 893.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following office whereof 80 per cent staff have acquired the working knowledge of Hindi :—

Bharat Heavy Electricals Ltd.,
Power Sector—PEM,
BHEL House, Siri Fort,
New Delhi-110049.

[No. E. 11012(1)/92-Hindi]

PANKAJ AGARWAL, Dy. Secy.

वाणिज्य मंत्रालय

विदेश व्यापार महानिदेशालय

आदेश

नई दिल्ली, 21 मार्च, 1997

का.आ. 894.—मैसर्स रॉयल सिक्युरिटी सर्विसेस प्राइवेट लिमिटेड, सिक्युरिटी बंगलों, प्रथम तल हनजेर सिनेमा के सामने, जगेश्वरी (पश्चिम) मुम्बई-400102 की निम्नलिखित अनुषंगी (क) कनेक्शन किट-एक (ख) ग्लास रॉक-एक (2) कट-लरी होल्डर-एक (3) प्लेट रॉक-दो (ग) प्रीवाश हैंड यूनिट-एक, के साथ सेकण्ड क्षमता 540 प्लेटों में एक नेडक ग्लासडिश बॉणर डी की 4 वो टी हुड टाइप 3 प्रोग्राम साइकिल के आयात के लिए 2,20,846/- रुपये (दो लाख बीस हजार आठ सौ छयालिस रुपये मात्र के लिए दिनांक 23-9-96 को आयात लाइसेंस सं पी/ए/2446587 जारी किया गया था।

फर्म ने इस आधार पर कि लाइसेंस की मूल सीमाशुल्क और विनियम नियंत्रण प्रयोजन की प्रतियां गुम या अस्थानास्थ हो गई हैं उपर्युक्त लाइसेंस की सीमाशुल्क और विनियम नियंत्रण प्रयोजन प्रति की डुप्लीकेट प्रति जारी करने के लिए आवेदन किया है। इसके अलावा यह भी कहा गया है कि लाइसेंस की सीमाशुल्क प्रयोजन और विनियम नियंत्रण प्रतियां किसी भी सीमाशुल्क प्राधिकारी के पास पंजीकृत नहीं की थी अतः सीमाशुल्क प्रयोजन की प्रति के मूल्य का अब तक उपयोग नहीं किया गया है।

2. अपने तर्क के समर्थन में, लाइसेंसधारी ने दिनांक 11-2-97 को नोटरी पब्लिक के समक्ष, बकायदा स्टाम्प पेपर पर शपथपत्र प्रस्तुत किया है तदनुसार मैं सहमत हूँ कि फर्म द्वारा दिनांक 23-9-96 के आयात लाइसेंस सं पी/ए/2446587 की मूल सीमाशुल्क उपयोग और विनियम नियंत्रण प्रतिलिपि गुम या अस्थानास्थ हो गई है। विदेश व्यापार महानिदेशालय, नई दिल्ली द्वारा जारी दिनांक 31-12-93 के का.आ. 1060(अ) के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स रॉयल सिक्युरिटी सर्विसेस प्राइवेट लिमिटेड को जारी की गई सीमाशुल्क प्रयोजन और विनियम नियंत्रण प्रतियां सं पी/ए/2446587 दिनांक 23-9-96 को रद्द करता हूँ।

3. उपर्युक्त लाइसेंस की डुप्लीकेट सीमाशुल्क प्रयोजन और विनियम नियंत्रण प्रतियां पार्टी को अलग से जारी की जा रही हैं।

[फाइल संख्या एस० पी० एल०/एन० एस० 6/471/ए० एम०-97/एस एल० एस०]

एच. एस. अस्वाल, उप महानिदेशक, विदेश व्यापार

MINISTRY OF COMMERCE

(Directorate General of Foreign Trade)

ORDER

New Delhi, the 21st March, 1997

S.O. 894.—M/s. Royal Security Services Pvt. Ltd., Security Bungalow, 1st Floor, Opp. Hanjer Cinema, Jogeshwari (West), Mumbai-400102 were granted an import licence No. P/A/2446587 dated 23-9-96 for Rs. 2,20,846 (Rupees Two lakhs Twenty Thousand Eight hundred & Forty Six only) for import of one meiko glass dish washer DV40T hood type 3 programme cycle in second capacity 540 plates/HR 415X3X50HZ with following accessories (A) connection kit-one. (B) glass rack-one (II) Cutlery Holder-one (II) Plate Rack-Two (C) Prewash Hand Unit-One.

The firm has applied for issue of Duplicate copies of Custom and Exchange Control purposes copy of the above mentioned licence on the ground that the original Customs Purposes and Exchange Control copies of the licence have been lost or misplaced. It has further been stated that the Customs purposes and Exchange Control copies of the licence was not registered with any Customs Authority and as such the value of Customs purpose copy has not been utilised at all.

In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public on 11-2-97. I am accordingly satisfied that the original Customs purposes and Exchange Control copy of import licence No. P/A/2446587 dated 23-9-96 has been lost or misplaced by the firm. In exercise of the powers conferred on me under order S.O. 1060(E) dt. 31-12-93 issued by DGFT, New Delhi. Customs purposes and Exchange Control copies No. P/A/2446587 dt. 23-9-96 issued to M/s. Royal Security Services Pvt. Ltd., are hereby cancelled.

3. Duplicate Customs purposes and Exchange Control copies of the said licence are being issued to the party separately.

[F.No.SPL/NX.6/471/AM.97/SLS]

H. L. ASWAL, Dy. Director General of Foreign Trade.

नागरिक पूति, उपभोक्ता मामले और सार्वजनिक वितरण मंत्रालय

नई दिल्ली, 19 मार्च, 1997

का.आ. 895.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट (नीचे आकृति देखिए) पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबन्धों के अनुरूप है और इस बात की संभावना है कि वह लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा।

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए सामान्य यथार्थता वर्ग (III) के “क्राउन” ब्रांड नाम वाले स्वतःसूचक गैर-स्वचालित यांत्रिक शिशु सहः बालक तोलन उपकरण के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स रमन सर्जिकल कंपनी 21/2, इन्द्रा विकास कालोनी, निरंकारी कालोनी, दिल्ली-110009 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई.एन डी/09/96/55 समनुदिष्ट किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

माडल (आकृति देखिए) एक सामान्य यथार्थता (यथार्थता वर्ग III) का तोलन उपकरण है जिसकी अधिकतम क्षमता 25 किलोग्राम और न्यूनतम क्षमता 1 किलोग्राम है। सत्यापन मापमान अन्तर है (ई) 100 ग्राम है। भारग्राही आयताकार संकेतन का है जिसका आकार 483×254 मिलीमीटर है। डायल और पाइंडर क्रियाविधि तोल परिणाम उपदर्शित करता है।



(Figure)

[का.स. डब्ल्यू एम 21(41)/96]]

राजीव श्रीवास्तव, संयुक्त सचिव, भारत सरकार

MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS
AND PUBLIC DISTRIBUTION

New Delhi, the 19th March, 1997

S.O. 895.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic Mechanical baby-cum-child weighing instrument of class III (Ordinary) accuracy with brand name “CROWN” (hereinafter referred to as the Model) manufactured by M/s. Ramon Surgical Company, 21/2, Indira Vikas Colony, Nirankari Colony, Delhi-110009, and which is assigned the approval mark IND/09/96/55;

The Model (see figure) is a ordinary accuracy (accuracy class III) weighing instrument with a maximum capacity of 25 kg. and minimum capacity of 1 kg. The verification scale interval (e) is 100 gram. The load receptor is of rectangular section of size 483 X 254 millimetres. The dial and pointer mechanism indicates the weighing result.



(figure)

[File No. WM-21(41)/96]

RAJIV SRIVASTAVA, Jt. Secy.

कोयला मंत्रालय

शुद्धि पत्र

नई दिल्ली, 14 मार्च, 1997

का.आ. 896.—भारत के राजपत्र, तारीख 28 सितम्बर 1996 के भाग-2, खंड 3, उपखंड (ii) में पृष्ठ संख्या 3734 से 3737 पर प्रकाशित भारत सरकार, कोयला मंत्रालय की अधिसूचना का.आ. सं. 2732 तारीख 9 सितम्बर, 1996 में :—

पृष्ठ क्रमांक 3734 अधिसूचना में :—

- पंक्ति 10 "निष्कासन के लिए न उनको खदाई" के स्थान पर
"निष्कासन के लिए उनको खुदाई पढ़ें।
- पंक्ति 11 "और ले पाने के अधिकारों" के स्थान पर
"और ले जाने के अधिकारों" पढ़ें।

पृष्ठ क्रमांक-3735 स्पष्टीकरण में

- पंक्ति 6 "ऐसी अतिरिक्त जांच" के स्थान पर "ऐसी अतिरिक्त जांच" पढ़ें।
- पंक्ति 2 "सं. का.आ. 955 तारीख 4-4-1987 द्वारा उक्त अधिनियम की धारा 8 के" के स्थान पर "सं.
का.आ. 905 तारीख 4-4-1987 द्वारा उक्त अधिनियम की धारा 3 के" पढ़ें।

तालिका में स्तम्भ के नीचे :

क्रम संख्या 3 "केरासरिया" के स्थान पर "केरासरिया" पढ़ें और जहां कहीं भी "केरासरिया" शब्द प्रयुक्त होता हो उसके स्थान पर "केरासरिया" पढ़ें।

क्षेत्र हैबटेयर में, स्तम्भ के नीचे,

क्रम संख्या 2 "166.35" के स्थान पर "166.85" पढ़ें।

क्रम संख्या 3 "077.22" के स्थान पर "077.72" पढ़ें।

वन भूमि में प्रमाण स्तम्भ के नीचे,

क्रम संख्या 1 "कोरिमा" के स्थान पर "कोरिया" पढ़ें।

पृष्ठ क्रमांक 3736

"ग्राम कुसवहां (भाग) में अर्जित किए जाने वाले प्लॉट सं." के स्थान पर

"4. ग्राम कुसवहां (भाग) में अर्जित किए जाने वाले प्लॉट सं." पढ़ें।

4. ग्राम कुसवहां (भाग) में अर्जित किए जाने वाले प्लॉट सं. में :—

पंक्ति 2 "110 (भाग), 111, 113 (भाग) 113" के स्थान पर "110 (भाग), 111, 112 (भाग), 113" पढ़ें।

सीमा वर्णन में रेखा ख-ग

पंक्ति-1 "ग्रामों की सम्मिलित" के स्थान पर "ग्रामों की सम्मिलित" पढ़ें।
रेखा ग-घ के स्थान पर "ग-ग 1-घ" पढ़ें।

रेखा-घ-ड में

पंक्ति 3 "713, 682" के स्थान पर "713, 712, 682" पढ़ें।

रेखा "ड-ड" के स्थान पर "ड-ड" पढ़ें।

रेखा ड-ड 1 में

पंक्ति 2, "ड" बिन्दु पर मिलती है" के स्थान पर "ड-1" बिन्दु पर मिलती है" पढ़ें।

रेखा "ड-घ" के स्थान पर "ड-1-घ" पढ़ें।

पृष्ठ क्रमांक 3737 रेखा छ-ज में

पंक्ति 1 "860, 859, 859, 858" के स्थान पर "860, 859, 858" पढ़ें।

पंक्ति 2 "1029, 1533, 1069" के स्थान पर "1029, 1033, 1069" पढ़ें।

[सं. 43015/13/95-एल.एस. डब्ल्यू.]

श्रीमती पी.एल. सैनी, अवर सचिव

MINISTRY OF COAL

CORRIGENDA

New Delhi, the 14th March, 1997

S.O. 896.—In the notification of the Government of India in the Ministry of Coal number S.O. 2732, dated the 9th September, 1996, published at pages 3737 to 3739 of the Gazette of India, Part-II, Section-3 Sub-section (ii), dated the 28th September, 1996,—

at page 3737, in line 4, for "section Sub-section (ii)" read "Section-3, Sub-section (ii)";

in line 33, for "any right to in", read "any rights in";

at page 3738, in the Schedule, in Grand Total, for "2640.05 acres", read "2640.75 acres";

in plot numbers to be acquired in village Katghori (Part), in line 3, for "363 (Part). 364", read "363 (Part), 364 (Part)";

in line 4, for "792 (Part), 796 (Part), 794 (Part)", read "792 (Part), 793 (Part), 794 (Part)";

at page 3739, in line 8, for "6 compartment number to be acquired in Damuj Protected Forest (Part)" read "6 Compartment number to be acquired in Damuj protected forest (Part)-P-377 (Part)".

[No. 43015/13/95-LSW]

P. L. SAINI, Under Secy.

कोयला-मंत्रालय

शुद्धि-पत्र

नई दिल्ली, 14 मार्च, 1997

का.आ. 897.—भारत के राजपत्र, तारीख 7 सितम्बर, 1996 के भाग 2, खंड-3, उपखंड (ii) में पृष्ठ संख्या 3363 में 3366 पर प्रकाशित भारत सरकार कोयला मंत्रालय की अधिसूचना का.आ. सं. 2579 तारीख 21 अगस्त, 1996 में :—

पृष्ठ क्रमांक 3364, अधिसूचना में, टिप्पण 3 में,

पंक्ति 3, "अधिसूचना सं. 29 का.आ. 905" के स्थान पर
"अधिसूचना सं. का.आ. 905" पढ़ें।

तालिका में, ग्राम का नाम स्तम्भ के नीचे,

क्रम संख्या 1, "दतिया" के स्थान पर "दतिमा" पढ़ें।

पृष्ठ क्रमांक 3365, निम्नलिखित प्लॉट संख्या ग्राम दतिमा में अर्जित किए जाने हैं (भाग) में,

पंक्ति 2, "1208 (भाग), 1209 (भाग)" के स्थान पर "1208 (भाग) 1209" पढ़ें।

"3. निम्नलिखित प्लॉट सं. ग्राम कसलापुर में अर्जित किए जाने हैं (भाग)" के स्थान पर

"3. निम्नलिखित प्लॉट सं. ग्राम कमलापुर में अर्जित किए जाने हैं (भाग) पढ़ें।

"5. निम्नलिखित प्लॉट सं. ग्राम कसकैला में अर्जित किए जाने हैं (भाग)" के स्थान पर

"5. निम्नलिखित प्लॉट सं. ग्राम कसकेला में अर्जित किए जाने हैं (भाग)" पढ़ें।

5. निम्नलिखित प्लॉट सं. ग्राम कसकेला में अर्जित किए जाने हैं (भाग) में

पंक्ति 6 "477(भाग), 471(भाग)", के स्थान पर "477 (भाग) , 478 (भाग)," पढ़ें।

पंक्ति 7 570 (भाग) 571 (भाग)". के स्थान पर 570 (भाग), 571, (पढ़ें)

पंक्ति "13, 1172 (भाग), 1183 (भाग)," के स्थान पर "1172 (भाग), 1182 (भाग)" पढ़ें।

पृष्ठ क्रमांक 3366, सीमा वर्णन में, रेखा ठ 1-ड में,

पंक्ति 1, "862, 763", के स्थान पर "862, 863", पढ़ें।

पंक्ति 2, "610, 865", के स्थान पर "610, 665" पढ़ें।

रेखा, ठ-ए-क में,

पंक्ति 2, "135/7, 135/8" के स्थान पर "135/7, 135/6, पढ़ें।

[संख्या 43015/7/95-एल.एस. डब्ल्यू.]

श्रीमती पी.एल. सैनी, अवर सचिव

MINISTRY OF COAL

CORRIGENDA

New Delhi, the 14th March, 1997

S. O.897.—In the notification of the Government of India in the Ministry of Coal number S.O. 2579 dated the 21st August, 1996 published at pages 3366 to 3368 of the Gazette of India, Part-II, Section-3, Sub-section (ii), dated the 7th September, 1996:—

At page 3368.—(1) under the heading "Plot numbers to be acquired in Village Kaskela (Part)", in line 6, for "478

(Part), 482" read "478 (Part), 482 (Part);

(2) under the heading, "Boundary description",—

(i) under the sub-heading "A-A1", in line 1, for "Village Latim" read "Village Datima";

(ii) under the sub-heading "F-G-H", in line 1, for "462, 493" read "462, 482".

[No. 43015/7/95-LSW]

P. L. SAINI, Under Secy.

शुद्धि-पत्र

नई दिल्ली, 25 मार्च, 1997

का.आ. 895.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) की धारा 7 उपधारा (1) के अधीन जारी और भारत सरकार के राजपत्र दिनांक 19 अक्टूबर, 1996 के भाग II, खण्ड 3, उपखण्ड (ii) पृष्ठ संख्यांक 4021 से 4025 पर प्रकाशित भारत सरकार कोयला मंत्रालय की अधिसूचना का.आ. 2941 दिनांक 25 सितम्बर, 96 द्वारा इस अधिसूचना से संलग्न अनुसूची में वर्णित भूमि का अधिग्रहण करने के अपने आशय की सूचना दी थी— और केन्द्रीय सरकार की जानकारी में यह बात लाई गई कि, राजपत्र में प्रकाशित उपरोक्त अधिसूचना में मुद्रण की कुछ गलतियाँ हैं।

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (i) द्वारा प्रदत्त शक्तियों और इस निमित्त सक्षम बनाने वाली अन्य सभी शक्तियों का प्रयोग करते हुए उक्त अधिसूचना में संलग्न अनुसूची में निम्नलिखित संशोधन करती है :—

पृष्ठ संख्या 4023 पर—

(1) ग्राम धोरवासा में अर्जित किये जाने वाले प्लॉट संख्यांक में—

1. "23/1, 23/2, के स्थान पर "23/1-23/2" पढ़िए
2. "63/1, 63/2, भाग" के स्थान पर "63/1-63/2 भाग" पढ़िए।
3. "68/1, 68/2, 68/3, 68/4" के स्थान पर "68/1-68/2-68/3-68/4" पढ़िए।
4. "101/1, 101/2" के स्थान पर "101/1-101/2" पढ़िए।
5. "356" के स्थान पर "358" पढ़िए।
6. "361, भाग" के स्थान पर "361 भाग" पढ़िए।

(2) सीमा वर्णन में—

रेखा ड-ब में—

1. "ग्राम धोरवासा से होकर जाती है और प्लॉट संख्यांक "63/1, 63/2 के स्थान पर "ग्राम धोरवासा से होकर जाती है और प्लॉट संख्यांक 46 के भागतः साय-साय और भागतः में से होकर जाती है और प्लॉट संख्यांक 63/1-63/2 पढ़िए।

2. "50/1, 50/2, 50/3, 50/3" के स्थान पर "50/1-50/2-50/3" पढ़िए। ऐसी भूमि में जिसकी बाबत उपरोक्त संशोधन जारी किया गया है, हितबद्ध कोई व्यक्ति इस अधिसूचना के जारी किए जाने के तीस दिन के भीतर उक्त भूमि संपूर्ण या किसी भाग के उक्त ऐसी भूमि में या उस पर किसी अधिकारी के अर्जित किए जाने के विरुद्ध उक्त अधिनियम की धारा 8 की उपधारा (1) के निबंधनों के अनुसार आक्षेप कर सकेगा।

स्पष्टीकरण:—केवल इस अधिसूचना के द्वारा संशोधित प्लॉट संख्यांकों की बाबत उक्त अधिनियम की धारा 8(1) के निबंधनों के अनुसार तीस दिन की उक्त अवधि इस अधिसूचना के राजपत्र में प्रकाशित किए जाने की तारीख से आरंभ होगी।

[सं. 43015/9/95-एल.एस.डब्ल्यू]

श्रीमती प्रेमलता सैनी, अवर सचिव

नई दिल्ली, 26 मार्च, 1997

का.आ. 899:—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपायद्ध अनुसूची में उल्लिखित भूमि में कोयला अधिप्राप्त किए जाने की संभावना है,

अतः, अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वोक्षण करने के अपने आशय की सूचना देती है,

इस अधिसूचना के अंतर्गत आने वाले रेखांक सं. सी-1(ई)III/जे जे आर/615-1196 तारीख 15 नवम्बर, 1996 का निरीक्षण वेस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), कोल एस्टेट, सिविल लाइन्स नागपुर 440001 के कार्यालय में या कलक्टर, यवतमाल (महाराष्ट्र) के कार्यालय में या कोयला नियंत्रक, 1, काउन्सिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में किया जा सकता है।

इस अधिसूचना के अंतर्गत आने वाली भूमि में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर भार साक्षक अधिकारी/विभागाध्यक्ष (राजस्व), ईस्टर्न कोलफील्ड्स लिमिटेड, कोल एस्टेट, सिविल लाइन्स नागपुर 440001 (महाराष्ट्र) को भेजेंगे।

अनुसूची

कोलगांव खण्ड

बनी क्षेत्र

जिला यवतमाल (महाराष्ट्र)

[रेखांक सं. सी-1 (ई)III/जे जे आर/615-1196 तारीख 15 नवम्बर, 1996]

क्रम सं.	ग्राम का नाम	ग्राम सं.	पटवारी सकिल सं.	तहसील	जिला	हैक्टेयर में क्षेत्र	टिप्पणियां
1.	कोलगांव	58	108	बनी	यावतमाल	210.00 भाग	
2.	टाकली	133	109	बनी	यावतमाल	252.50 भाग	
3.	चिखली	107	109	बनी	यावतमाल	319.43 भाग	
4.	येनाक	307	107	बनी	यावतमाल	133.50 भाग	
5.	साखारा	372	108	बनी	यावतमाल	15.30 भाग	

कुल क्षेत्र : 930.73 हैक्टेयर

(लगभग)

या 2299.92 एकड़

(लगभग)

सीमा वर्णन :

- क—ख रेखा बिन्दु "क" से आरम्भ होती है और येनाक, कोलगांव और साखारा ग्रामों से होकर जाती है और बिन्दु "ख" पर मिलती है।
- ख—ग रेखा साखारा ग्राम से होकर जाती है फिर कोलगांव और साखारा ग्रामों की सम्मिलित ग्राम सीमा के साथ-साथ जाती है और बिन्दु 'ग' पर मिलती है।
- ग—घ रेखा कोलगांव और टाकली ग्रामों से होकर जाती है और बिन्दु "घ" पर मिलती है।
- घ—ङ रेखा पेण गंगा नदी के साथ-साथ टाकली और चिखली ग्रामों से होकर जाती है और बिन्दु "ङ" पर मिलती है।
- ङ—च रेखा चिखली और परामदोह ग्रामों की सम्मिलित ग्राम सीमा के साथ-साथ जाती है, फिर ग्राम चिखली से होकर जाती है और चिखली और येनाक ग्रामों की सम्मिलित ग्राम सीमा के साथ-साथ जाती है और बिन्दु "च" पर मिलती है।
- च—क रेखा ग्राम येनाक से होकर जाती है और आरम्भिक बिन्दु "क" पर मिलती है।

[सं. 43015/18/96-एल.एस. डब्ल्यू]]

श्रीमती पी.एल. सेनी, अवर सचिव

New Delhi, the 26th March, 1997

S.O.899.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing No. C-I(E)III/JJR/615-1196 dated the 15th November, 1996 of the area covered by this notification can be inspected in the office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur-440 001 (Maharashtra) or in the office of the Collector, Yavatmal (Maharashtra) or in the office of the Coal Controller, 1, Council House Street, Calcutta.

All persons interested in the lands covered by this notification may deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Officer-in-Charge/Head of the Department (Revenue), Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur-440 001 (Maharashtra) within ninety days from the date of publication of this notification.

SCHEDULE

Kolgaon Block

Wani Area

District Yavatmal (Maharashtra).

[Plan No. C-I(E)III/JJR/615-1196 dated the 15th November, 1996.]

Sl.	Name of Village	Village number	Patwari Circle number	Tahsil	District	Area in hectares	Remarks
1	2	3	4	5	6	7	8
1.	Kolgaon	58	108	Wani	Yavatmal	210.00	Part
2.	Takali	133	109	Wani	Yavatmal	252.50	Part
3.	Chikhali	107	109	Wani	Yavatmal	319.43	Part
4.	Yenak	307	107	Wani	Yavatmal	133.50	Part
5.	Sakhara	372	108	Wani	Yavatmal	15.30	Part
Total Area :						930.73 hectares (approximately)	
						or 2299.92 acres (approximately).	

Boundary description :

- A—B : Line starts from point 'A' and passes through villages Yenak, Kolgaon and Sakhara and meets at point 'B'.
- B—C : Line passes through village Sakhara, then proceeds along the common village boundary of villages Kolgaon and Sakhara and meets at point 'C'.
- C—D : Line passes through villages Kolgaon and Takali and meets at point 'D'.
- D—E : Line passes through villages Takali and Chikhali along the bank of Painganga River and meets at point 'E'.
- E—F : Line passes along the common village boundary of villages Chikhali and Para-mdoh, then proceeds through village Chikhali and passes along the common village boundary of villages Chikhali and Yenak and meets at point 'F'.
- F—A : Line passes through village Yenak and meets at starting point 'A'.

[No. 43015/18/96-LSW]

Mrs. P. L. SAINI, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

अनुसूची

नई दिल्ली, 17 मार्च, 1997.

तालुका: लीबडी जिला: सुरेन्द्रनगर राज्य: गुजरात

का. आ. 900.- केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाइप-लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 2471, तारीख 13 अगस्त 1996 द्वारा पेट्रोलियम के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में बिनिर्दिष्ट भूमि में उपयोग के अधिकारों के अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 24 अगस्त 1996 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में बिनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना से संलग्न अनुसूची में बिनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है;

यह और कि केन्द्रीय सरकार, उक्त धारा की उप धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार, केन्द्रीय सरकार में निहित होने की बजाए सभी विलुप्तियों से रहित भारत ओमान रिफाईनरीज़ लिमिटेड में निहित होगा।

गांव का नाम	सर्वेक्षण सं./ खंड सं.	क्षेत्र हेक्टर आरे सेन्टी आरे
1	2	3 4 5
जनशाली	87	0 04 45
	105	0 22 20
	104	0 01 24
	107	0 00 51
	106	0 73 50
	110	1 03 50
	112	0 63 00
	114	0 31 80
	118	0 53 55
	122	0 39 60
	127	0 30 80
	126	0 03 65
	128	0 28 95
	129	0 07 92
	50	0 18 41
	49	0 10 80
	48	0 52 35
	53	0 18 90

[फा. सं. आर-31015/20/96-ओआर. II]

के. सी. कटोच, अवर सचीव

Ministry of Petroleum and Natural Gas

vesting in the Central Government, vest, free from all encumbrances, in the Bharat Oman Refineries Limited;

New Delhi, the 17th March, 1997

S.O. 900.- Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas No. S. O. 2471 dated the 13th August 1996, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of petroleum;

And whereas, the copies of the said gazette notification were made available to the public on the 24th day of August, 1996;

And whereas, the Competent authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government;

And whereas, the Central Government after considering the said report is satisfied that the right of user in the lands specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification are hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of the said section, the Central Government hereby directs that the right of user in the said lands shall instead of

SCHEDULE

Taluka: Limbdi District: Surendranagar State : Gujarat

Name of Village	Survey/Block Number	Area		
		Hec-tare	Are	Cent-tare
1	2	3	4	5
Janshali	87	0	04	45
	105	0	22	20
	104	0	01	24
	107	0	00	51
	106	0	73	50
	110	1	03	50
	112	0	63	00
	114	0	31	80
	118	0	53	55
	122	0	39	60
	127	0	30	80
	126	0	03	65
	128	0	28	95
	129	0	07	92
	50	0	18	41
	49	0	10	80
	48	0	52	35
	53	0	18	90

[File No. R-31015/20/96-OR.II]
K.C. Katoch, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

अनुसूची

नई दिल्ली, 17 मार्च, 1997.

तालुका: धोलका जिला: अहमदाबाद राज्य: गुजरात

का. आ. 901 - केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाइप-लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 2472, तारीख 13 अगस्त 1996 द्वारा पेट्रोलियम के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में बिनिर्दिष्ट भूमि में उपयोग के अधिकारों के अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 24 अगस्त 1996 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में बिनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना से संलग्न अनुसूची में बिनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है;

यह और कि केन्द्रीय सरकार, उक्त धारा की उप धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार, केन्द्रीय सरकार में निहित होने की बजाए सभी विलुप्तियों से रहित भारत ओमान रिफाईनरीज़ लिमिटेड में निहित होगा।

गांव का नाम	सर्वेक्षण सं./ खंड सं.	क्षेत्र		
		हेक्टर आरे सेन्टी आरे		
1	2	3	4	5
बगोदरा	693	2	79	00
	726	0	71	40
	727	0	48	00
	722	0	23	50
	728/1	}	0	61 37
	728/2			
	721		0	03 68
	731		0	23 79
	720		0	20 25
	719		0	61 50
	738		0	78 60
	742/1	}	0	00 80
	742/2			
	741		0	41 10
	753		0	44 10
	755		0	18 90
	805		0	36 60
	802/1	}	0	64 80
	802/2			
	799		0	58 50
	854		0	03 00
	860		0	60 00
	866/1		0	70 65
	865		0	42 00
	864		0	35 05
	870		0	09 25
	923		0	23 50
	922/1	}		
	922/2			
	922/3	}	0	85 20
	922/4			
	922/5			
	922/6			

1	2	3	4	5	1	2	3	4	5
	913/1	}	0	75	00		98/1	}	
	913/2	}					98/2	}	0 33 60
	908		0	43	50		99/1	}	
	905		0	46	50		99/2	}	0 21 54
	906		0	51	90		99/3	}	
	31		0	72	00	मीठापुर	278		0 25 20
	35/1	}	0	95	55		277		0 34 74
	35/2	}					276		0 23 25
	156/1	}					275		0 40 50
	156/2						402		0 21 83
	156/10	}	1	00	50		272		0 07 75
	156/3						270		0 36 69
	156/4						271		0 01 66
	156/5						269		0 32 75
	156/6						79		0 27 30
	156/7						82		0 85 47
	156/8						86		0 56 29
	156/9	}					94		0 08 40
	93/21	}					93		0 11 60
	93/22						95		0 55 96
	93/16						99		0 42 99
	93/18	}	1	41	00		114		0 56 25
	93/7						113		0 25 80
	93/9						1033		0 41 25
	93/14/4						119		0 18 00
	93/14/10	}					111		0 16 34
	123/1	}	0	35	10		120		0 27 32
	123/2	}					108		0 31 33
	122		0	20	40		107		0 43 80
	120		0	52	50		106		0 39 60
	102/1	}	0	08	36		126		0 26 62
	102/2	}							
	101/1	}	0	45	00				
	101/2	}							
	100		0	40	50				

[फा. सं. आर-31015/19/96-ओआर. II]

के. सी. कटोच, अवर सचीव,

[फा. सं. आर-31015/19/96-ओआर. II]

के. सी. कटोच, अवर सचीव,

Ministry of Petroleum and Natural Gas

SCHEDULE

Taluka:Dholka District:Ahmedabad State :Gujarat

New Delhi, the 17th March 1997

S.O. 901.- Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas No. S. O. 2472 dated the 13th August 1996, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of petroleum;

And whereas, the copies of the said gazette notification were made available to the public on the 24th day of August, 1996;

And whereas, the Competent authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government;

And whereas, the Central Government after considering the said report is satisfied that the right of user in the lands specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification are hereby acquired;

And further in exercise of the powers conferred by sub-section (4) of the said section, the Central Government hereby directs that the right of user in the said lands shall instead of vesting in the Central Government, vest, free from all encumbrances, in the Bharat Oman Refineries Limited;

Name of Village	Survey/Block Number	Area		
		Hec-tare	Are	Cent-tare
1	2	3	4	5
Bagodara	693	2	79	00
	726	0	71	40
	727	0	48	00
	722	0	23	50
	728/1	0	61	37
	728/2			
	721	0	03	68
	731	0	23	79
	720	0	20	25
	719	0	61	50
	738	0	78	60
	742/1	0	00	80
	742/2			
	741	0	41	10
	753	0	44	10
	755	0	18	90
	805	0	36	60
	802/1	0	64	80
	802/2			
	799	0	58	50
	854	0	03	00
	860	0	60	00
	866/1	0	70	65
	865	0	42	00
	864	0	35	05
	870	0	09	25
	923	0	23	50
	922/1			
	922/2			
	922/3	0	85	20
	922/4			
	922/5			
	922/6			

1	2	3	4	5	1	2	3	4	5
	913/1	0	75	00		100	0	40	50
	913/2					98/1			
	908	0	43	50		98/2	0	33	60
	905	0	46	50		99/1			
	906	0	51	90		99/2	0	21	54
	31	0	72	00		99/3			
	35/1	0	95	55	Mithapur	278	0	25	20
	35/2					277	0	34	74
	156/1					276	0	23	25
	156/2					275	0	40	50
	156/10	1	00	50		402	0	21	83
	156/3					272	0	07	75
	156/4					270	0	36	69
	156/5					271	0	01	66
	156/6					269	0	32	75
	156/7					79	0	27	30
	156/8					82	0	85	47
	156/9					86	0	56	29
	93/21					94	0	08	40
	93/22					93	0	11	60
	93/16					95	0	55	96
	93/18	1	41	00		99	0	42	99
	93/7					114	0	56	25
	93/9					113	0	25	80
	93/14/4					1033	0	41	25
	93/14/10					119	0	18	00
	123/1	0	35	10		111	0	16	34
	123/2					120	0	27	32
	122	0	20	40		108	0	31	33
	120	0	52	50		107	0	43	80
	102/1	0	08	36		106	0	39	60
	102/2					126	0	26	62
	101/1	0	45	00					
	101/2								

[File No. R-31015/19/96-OR.II]
K.C. Katoch, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

अनुसूची

नई दिल्ली, 19 मार्च, 1997.

तालुका: ध्रोल जिला: जामनगर राज्य: गुजरात

का.आ. 902 .- केन्द्रीय सरकार ने यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में खाडीनार से मध्य प्रदेश राज्य में बीना तक कच्चे तेल के परिवहन के लिये भारत ओमान रीफाइनरीज लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिये;

और कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उनमें उपयोग का अधिकार अर्जित करने का अपना आशय घोषित करती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दिए जाने की तारीख से इक्कीस दिन के भीतर, उनमें उपयोग के अधिकार का अर्जन या भूमि में पाइपलाइन बिछाने के संबंध में आक्षेप, लिखित रूप में श्री डी. एच. रविया, सक्षम प्राधिकारी, भारत ओमान रीफाइनरीज लिमिटेड, सेंट्रल इंडिया रीफाइनरी परियोजना, अब्बासी चेम्बर्स, दुसरी मंजिल, पंजाब नेशनल बैंक के पास, राजकोट 360001, गुजरात को कर सकेगा ;

गांव का नाम	सर्वेक्षण सं./ खंड सं.	क्षेत्र हेक्टर आरे सेन्टी आरे		
1	2	3	4	5
रोड़ीया	नहेर	0	11	70
	78	0	39	25
	10 नहेर	0	05	45
	85	0	78	30
	84	0	44	55
	83	0	76	02
	कार्टट्रक	0	01	98
	82	0	77	70
	कार्टट्रक	0	06	45
	89	0	53	55
	90	0	69	15
	127	0	66	90
	नहेर	0	07	73
	128	0	58	39
	263 सरकारी	0	31	07
	खराबा			
	नाला	0	02	10
	128 पैकी	0	47	15
	नाला	0	22	54
	कार्टट्रक	0	02	63
	138	0	57	98
	137	0	30	19
	136	0	18	30
	263	0	56	92
	कार्टट्रक	0	03	90
	196	0	19	05
	नाला	0	09	00

1	2	3	4	5	1	2	3	4	5
	193					रोड	0	08	70
	194					197 पैकी			
	195	} 0	16	80		197 पैकी			
	197					197 पैकी	} 0	63	30
	199					197 पैकी			
	200					197 पैकी			
	नाला	0	04	35		197 पैकी			
	198	0	17	70		194 पैकी	} 0	60	83
	कार्ट्रिक	0	03	00		194 पैकी			
	255	0	67	76		182 पैकी	} 0	27	30
	कार्ट्रिक	0	01	38		182 पैकी			
	256	0	47	93		183 पैकी	} 0	52	05
	नदी	0	75	75		183 पैकी			
हमापर	228	0	55	80		147 पैकी			
	227	0	11	65		147 पैकी	} 0	95	70
	226 पैकी					147 पैकी			
	226 पैकी	} 0	79	40		146	0	70	13
	226 पैकी				मोटा इटाला	41/1 पैकी			
	नहेर	0	04	80		41/2 पैकी	} 0	62	84
	225	0	20	02		41/2 पैकी			
	224/2	} 0	64	58		40	0	02	22
	224/2					42/1/1			
	कार्ट्रिक	0	01	20		42/1/2			
	219	0	73	80		42/1/2	} 0	74	94
	218 पैकी					42/1/2			
	218 पैकी	} 0	44	02		42			
	218 पैकी					नाला	0	03	52
	217 पैकी	} 0	27	98		कार्ट्रिक	0	01	32
	217 पैकी					43 पैकी	} 0	31	05
	नहेर	0	04	95		43 पैकी			
	216 पैकी					44 पैकी			
	216 पैकी	} 0	51	07		44 पैकी	} 0	59	10
	216 पैकी					44 पैकी			
	216 पैकी					70 पैकी	} 0	53	58
	306	0	11	62		70 पैकी			
	200	0	33	60					
	199	0	41	85					
	198 पैकी	} 0	32	18					
	198 पैकी								

1	2	3	4	5	1	2	3	4	5
	71	0	08	86		288	0	40	05
	काटट्रक	0	02	42		289	0	10	00
	60	0	52	66		225/1	0	37	03
	69 पैकी	0	02	03		225/2			
	69 पैकी					223	0	00	68
	66	0	22	10		224/1	0	36	71
	61	0	19	55		224/2			
	65 पैकी	0	13	04		नाला	0	02	13
	65 पैकी					काटट्रक	0	01	60
	काटट्रक	0	03	52		230 पैकी	0	22	40
	63	0	22	72		230 पैकी			
	नाला	0	08	93		काटट्रक	0	11	60
	24 पैकी	0	06	30		218/1/पैकी			
	24 पैकी					218/1/पैकी	0	73	31
	27	0	46	49		218/2			
	25	0	10	38		219 सरकारी	0	21	37
	15 पैकी					216 पैकी			
	15 पैकी	0	26	00		216 पैकी	0	02	27
	15 पैकी					216 पैकी			
	14	0	44	40		215 पैकी			
	काटट्रक	0	03	42		215 पैकी	1	13	44
	2 पैकी					215 पैकी			
	2 पैकी	0	41	40		215 पैकी			
	2 पैकी					काटट्रक	0	06	02
	नाला	0	11	85		189/1 पैकी			
	काटट्रक	0	02	17		189/1 पैकी	0	75	60
	300 पैकी					189/1 पैकी			
	300 पैकी					189/1 पैकी			
	300 पैकी	0	97	38		189/1 पैकी			
	300 पैकी					189/1 पैकी			
	300 पैकी					189/1 पैकी			
	300 पैकी					189/2 पैकी			
	300 पैकी					189/2 पैकी			
	300 पैकी					नाला	0	09	45
	300 पैकी					205	0	01	71
	300 पैकी					206	0	60	61
	300 पैकी					207	0	43	50
	300 पैकी					208/पैकी	0	46	20
	300 पैकी					208/पैकी			
	287/1 पैकी	0	06	77		212 पैकी	0	77	86
	287/1 पैकी					212 पैकी			
	नाला	0	06	78		नाला	0	04	40

गडडा

1	2	3	4	5	1	2	3	4	5	
	224/1	1	83	09		258	0	15	07	
	नाला	0	10	17		नहेर	0	01	70	
	214/1	}				235	0	47	55	
	214/2 पैकी		}	0	52	63	234	0	42	06
	214/2 पैकी						237	0	00	54
	काटेट्रक	0	03	50		238	0	04	07	
	177	0	64	95		239	0	24	50	
	नाला	0	37	90		240	1	59	20	
	175	0	41	00		काटेट्रक	0	00	10	
	174 गोचर	0	11	80		210	0	49	80	
	173 गोचर	0	09	53		189	0	07	80	
	काटेट्रक	0	00	90		190	0	54	15	
	172 पैकी	}				188	0	67	30	
	172 पैकी		}	0	06	48	184	0	52	95
	172 पैकी						175 पैकी	}	0	13
	169 पैकी	}				175 पैकी				
	169 पैकी		}	1	34	11	172	0	06	35
	169 पैकी						171	0	42	07
	170	0	00	18		170	0	18	23	
	रोड	0	04	95		164	0	04	95	
	नाला	0	14	96		169	0	31	85	
लैयाला	नहेर	0	06	40		166	0	48	80	
	नाला	0	12	32		155	0	22	65	
	287	4	16	35		153	0	59	49	
	रेलवे	0	06	00		152	0	00	36	
	नाला	0	01	50		57	0	51	15	
	रोड	0	03	30	सुधाघुना	नाला	0	03	30	
	काटेट्रक	0	14	05		67	0	99	00	
	नाला	0	16	71		68	0	63	60	
	रोड	0	12	90		नाला	0	06	30	
	329 गोचर	0	07	18		69	0	49	13	
	काटेट्रक	0	05	60						
	257	0	00	23						

1	2	3	4	5
	75	0	20	17
	काटेदूक	0	02	10
	76	0	08	05

[फा. सं. आर-31015/29/96-ओआर. II]

के. सी. कटोच, जवर सचीव,

Ministry of Petroleum and Natural Gas

New Delhi, the 19 March, 1997

S.O. 902 .- Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Vadinar in the State of Gujarat to Bina in the State of Madhya Pradesh, pipelines should be laid by the Bharat Oman Refineries Limited;

And whereas, that for the purpose of laying such pipelines, it is necessary to acquire the right of users in the lands described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the lands described in the said Schedule may within twenty-one days from the date on which the copies of the notification, as published in the official Gazette, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipelines under the land to Shri, D. H. Raviya, Competent authority, Bharat Oman Refineries Limited, Central India Refinery Project, Abbasi Chambers, 2nd Floor Near Punjab National Bank, Rajkot - 360001, Gujarat;

SCHEDULE

Taluka : Dhrol District : Jamnagar State: Gujarat

Name of Village	Survey/Block Number	Area Hec- Are Cent-tare
1	2	3
Rojhiya	Canal	0

1	2	3	4	5
	78	0	39	25
	10 Canal	0	05	45
	85	0	78	30
	84	0	44	55
	83	0	76	02
	Cart track	0	01	98
	82	0	77	70
	Cart track	0	06	45
	89	0	53	55
	90	0	69	15
	127	0	66	90
	Canal	0	07	73
	128	0	58	39
	263 Government Kharaba Nalla	0	31	07
	128 Paiki	0	47	15
	Nalla	0	22	54
	Cart track	0	02	63
	138	0	57	98
	137	0	30	19
	136	0	18	30
	263	0	56	92
	Cart track	0	03	90
	196	0	19	05
	Nalla	0	09	00
	193			
	194			
	195	0	16	80
	197			
	199			
	200			
	Nalla	0	04	35
	198	0	17	70

1	2	3	4	5	1	2	3	4	5
	Cart track	0	03	00		194 Paiki	0	60	83
	255	0	67	76		194 Paiki			
	Cart track	0	01	38		182 Paiki	0	27	30
	256	0	47	93		182 Paiki			
	River	0	75	75		183 Paiki	0	52	05
Hamapar	228	0	55	80		183 Paiki			
	227	0	11	65		147 Paiki			
	226 Paiki					147 Paiki	0	95	70
	226 Paiki	0	79	40		147 Paiki			
	226 Paiki					146	0	70	13
	Canal	0	04	80	Mota Itala	41/1 Paiki			
	225	0	20	02		41/2 Paiki	0	62	84
	224/2	0	64	58		41/2 Paiki			
	224/2					40	0	02	22
	Cart track	0	01	20		42/1/1			
	219	0	73	80		42/1/2			
	218 Paiki					42/1/2	0	74	94
	218 Paiki	0	44	02		42/1/2			
	218 Paiki					42			
	217 Paiki	0	27	98		Nalla	0	03	52
	217 Paiki					Cart track	0	01	32
	Canal	0	04	95		43 Paiki	0	31	05
	216 Paiki					43 Paiki			
	216 Paiki	0	51	07		44 Paiki			
	216 Paiki					44 Paiki	0	59	10
	216 Paiki					44 Paiki			
	306	0	11	62		70 Paiki	0	53	58
	200	0	33	60		70 Paiki			
	199	0	41	85		71	0	08	86
	198 Paiki	0	32	18		Cart track	0	02	42
	198 Paiki					60	0	52	66
	Road	0	08	70		69 Paiki	0	02	03
	197 Paiki					69 Paiki			
	197 Paiki					66	0	22	10
	197 Paiki	0	63	30		61	0	19	55
	197 Paiki					65 Paiki	0	13	04
	197 Paiki					65 Paiki			

1	2	3	4	5	1	2	3	4	5
	Cart track	0	03	52		225/1	0	37	03
	63	0	22	72		225/2			
	Nalla	0	08	93		223	0	00	68
	24 Paiki	0	06	30		224/1	0	36	71
	24 Paiki					224/2			
	27	0	46	49		Nalla	0	02	13
	25	0	10	38		Cart track	0	01	60
	15 Paiki					230 Paiki	0	22	40
	15 Paiki	0	26	00		230 Paiki			
	15 Paiki					Cart track	0	11	60
	14	0	44	40		218/1/Paiki			
	Cart track	0	03	42		218/1/Paiki	0	73	31
	2 Paiki					218/2			
	2 Paiki	0	41	40		219 Government	0	21	37
	2 Paiki					216 Paiki			
	Nalla	0	11	85		216 Paiki	0	02	27
	Cart track	0	02	17		216 Paiki			
	300 Paiki					215 Paiki			
	300 Paiki					215 Paiki	1	13	44
	300 Paiki	0	97	38		215 Paiki			
	300 Paiki					Cart track	0	06	02
	300 Paiki					189/1 Paiki			
	300 Paiki					189/1 Paiki	0	75	60
	300 Paiki					189/1 Paiki			
	300 Paiki					189/1 Paiki			
	300 Paiki					189/1 Paiki			
	300 Paiki					189/2 Paiki			
	300 Paiki					189/2 Paiki			
	300 Paiki					Nalla	0	09	45
	300 Paiki				Gadhada	205	0	01	71
	300 Paiki					206	0	60	61
	287/1 Paiki	0	06	77		207	0	43	57
	287/1 Paiki					208/Paiki	0	46	20
	Nalla	0	06	78		208/Paiki			
	288	0	40	05		212 Paiki	0	77	86
	289	0	10	00		212 Paiki			
						Nalla	0	04	40

1	2	3	4	5	1	2	3	4	5
	224/1	1	83	09		237	0	00	54
	Nalla	0	10	17		238	0	04	07
	214/1					239	0	24	50
	214/2 Paiki	0	52	63		240	1	59	20
	214/2 Paiki					Cart track	0	00	10
	Cart track	0	03	50		210	0	49	80
	177	0	64	95		189	0	07	80
	Nalla	0	37	90		190	0	54	15
	175	0	41	00		188	0	67	30
	174 Cattle field	0	11	80		184	0	52	95
	173 Cattle field	0	09	53		175 Paiki	0	13	87
	Cart track	0	00	90		175 Paiki			
	172 Paiki					172	0	06	35
	172 Paiki	0	06	48		171	0	42	07
	172 Paiki					170	0	18	23
	169 Paiki					164	0	04	95
	169 Paiki	1	34	11		169	0	31	85
	169 Paiki					166	0	48	80
	170	0	00	18		155	0	22	65
	Road	0	04	95		153	0	59	49
	Nalla	0	14	96		152	0	00	36
Laiyala	Canal	0	06	40		57	0	51	15
	Nalla	0	12	32	Sudhaghuna	Nalla	0	03	30
	287	4	16	35		67	0	99	00
	Railway	0	06	00		68	0	63	60
	Nalla	0	01	50		Nalla	0	06	30
	Road	0	03	30		69	0	49	13
	Cart track	0	14	05		75	0	20	17
	Nalla	0	16	71		Cart track	0	02	10
	Road	0	12	90		76	0	08	05
	329 Cattle field	0	07	18					
	Cart track	0	05	60					
	257	0	00	23					
	258	0	15	07					
	Canal	0	01	70					
	235	0	47	55					
	234	0	42	06					

[File No. R-31015/29/96-OR.II]
K.C. Katoch, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 19 मार्च, 1997.

का.आ. 903 .- केन्द्रीय सरकार ने यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में वाडीनार से मध्य प्रदेश राज्य में बीना तक कच्चे तेल के परिवहन के लिये भारत ओमान रीफाइनरीज़ लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिये;

और कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उनमें उपयोग का अधिकार अर्जित करने का अपना आशय घोषित करती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दिए जाने की तारीख से इक्कीस दिन के भीतर, उनमें उपयोग के अधिकार का अर्जन या भूमि में पाइपलाइन बिछाने के संबंध में आक्षेप, लिखित रूप में श्री डी. एच. रविया, सक्षम प्राधिकारी, भारत ओमान रीफाइनरीज़ लिमिटेड, सेंट्रल इंडिया रीफाइनरी परियोजना, अम्बासी चेम्बर्स, दुसरी मंजिल, पंजाब नेशनल बैंक के पास, राजकोट 360001, गुजरात को कर सकेगा ;

अनुसूची

तालुका: लालपर जिला: जामनगर राज्य: गुजरात

गाव का नाम	सर्वेक्षण सं./ खंड सं.	क्षेत्र		
		हेक्टर आरे सेन्टी आरे		
1	2	3	4	5
सींगच	काटेदूक	0	04	20
	319/2 गोचर	0	20	50
	काटेदूक	0	24	34
	320/1	0	12	08
	286 पैकी	0	13	26
	काटेदूक	0	01	08
	284	0	71	73
	283 पैकी	}		
	283 पैकी	}		
	283 पैकी	}	0	30 29
	283 पैकी	}		
	283 पैकी	}		
	251		0	25 95
	259		0	23 06
	258 पैकी	}	0	04 19
	258 पैकी	}		
	255		0	34 32
	257		0	00 02
	256		0	05 23
	254		0	45 71
	239		0	00 60
	269		0	04 00
	237 पैकी		0	29 94
	नाला		0	02 54
	236 पैकी	}		
	236 पैकी	}	0	12 02
	236 पैकी	}		
	233		0	40 91
	232 पैकी		0	09 60

1	2	3	4	5	1	2	3	4	5
	227	0	57	34		82 पैकी			
	226 सरकारी	0	13	58		82 पैकी	0	22	21
	नाला	0	29	40		82 पैकी			
	149	0	30	68		82 पैकी			
	148	0	14	20		कार्टेक	0	02	99
	147	0	41	29		494 पैकी			
	146	0	03	11		494 पैकी	0	40	18
	143	0	27	53		494 पैकी			
	नाला	0	02	40		494 पैकी			
	137/1					39	0	68	73
	137/2 पैकी					501 पैकी	0	48	40
	137/2 पैकी					501 पैकी			
	137/2 पैकी					487 पैकी			
	137/2 पैकी					487 पैकी	0	02	57
	137/3	0	86	03		487 पैकी			
	137/4					502	0	45	75
	137/5					कार्टेक	0	01	71
	137/6					505 पैकी			
	137/7					505 पैकी	0	29	05
	137/8					505 पैकी			
	139/1					504	0	38	39
	139/2 पैकी					77/1/1 सरकारी	4	70	63
	139/2 पैकी	0	11	00		नाला	0	01	42
	139/3					नाला	0	01	43
	139/4					519	0	28	35
	138/2 पैकी					नाला	0	02	85
	138/2 पैकी	0	53	05		520 पैकी सरकारी	0	24	15
	138/2 पैकी					521	0	28	95
	135 पैकी	0	34	58		नाला	0	13	35
	135 पैकी					कार्टेक	0	02	25
	जांखर नाला	0	04	85		529	0	32	10
	490	0	22	50		522	0	00	40
	488 पैकी	0	85	20		77 पैकी	4	57	20
	488 पैकी					नाला	0	11	03
						175	0	26	55
						176	0	25	43

1	2	3	4	5	1	2	3	4	5	
	काटट्रक	0	03	30		189		0	41	40
	177	0	11	48		188		0	27	35
	178	0	50	69		190		0	16	55
	नाला	0	05	25		176		0	04	78
	180 पैकी }	0	00	76		177		0	15	21
	180 पैकी }					178/1 }		0	15	75
	नदी	0	41	70		178/2 }				
	173	0	13	43		179		0	08	94
	काटट्रक	0	02	85		180		0	03	09
	174	0	46	50		50/1 पैकी }				
	काटट्रक	0	02	85		50/1 पैकी }				
	नदी	0	12	68		50/1 पैकी }	0	04	50	
	158	0	22	50		50/2 पैकी }				
	154 पैकी }	0	24	08		50/3 पैकी }				
	154 पैकी }					170		0	28	26
	153 पैकी }	0	62	40		काटट्रक		0	03	15
	153 पैकी }					62		0	56	18
	150	0	22	17		53/1		0	78	23
	149	0	00	11		161		0	03	00
	146	0	38	48		162		0	67	58
	147/1	0	10	28		165		0	11	10
	काटट्रक	0	02	70		163		0	38	77
	145	0	00	19		157		0	31	35
	139	0	54	56		नाला		0	04	35
	140	0	05	40		155		0	12	30
जोगवड	209 सरकारी	0	19	95		काटट्रक		0	07	65
	210	0	60	54		151		0	35	35
	44	0	03	58		154 पैकी }	0	20	40	
	43	0	71	40		154 पैकी }				
	195 पैकी }	0	68	79		153		0	41	10
	195 पैकी }									
	196	0	16	54						
	नदी	0	06	15						

[फा. सं. आर-31015/30/96-ओआर. II]

के. सी. कटोच, अवर सचीव.

[फा. सं. आर-31015/30/96-ओआर. II]

के. सी. कटोच, अवर सचीव.

Ministry of Petroleum and Natural Gas

SCHEDULE

New Delhi, the 19th March, 1997

Taluka : Lalpur District : Jamnagar State: Gujarat

S.O. 903 - Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Vadinar in the State of Gujarat to Bina in the State of Madhya Pradesh, pipelines should be laid by the Bharat Oman Refineries Limited;

And whereas, that for the purpose of laying such pipelines, it is necessary to acquire the right of users in the lands described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the lands described in the said Schedule may within twenty-one days from the date on which the copies of the notification, as published in the official Gazette, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipelines under the land to Shri, D. H. Raviya, Competent authority, Bharat Oman Refineries Limited, Central India Refinery Project, Abbasi Chambers, 2nd Floor Near Punjab National Bank, Rajkot - 360001, Gujarat;

Name of Village	Survey/Block Number	Area		
		Hec-tare	Are	Cent-tare
1	2	3	4	5
Singach	Cart track	0	04	20
	319/2 Cattle field	0	20	50
	Cart track	0	24	34
	320/1	0	12	08
	286 Paiki	0	13	26
	Cart track	0	01	08
	284	0	71	73
	283 Paiki			
	283 Paiki			
	283 Paiki	0	30	29
	283 Paiki			
	283 Paiki			
	251	0	25	95
	259	0	23	06
	258 Paiki	0	04	19
	258 Paiki			
	255	0	34	32
	257	0	00	02
	256	0	05	23
	254	0	45	71
	239	0	00	60
	269	0	04	00
	237 Paiki	0	29	94
	Drain	0	02	54
	236 Paiki			
	236 Paiki	0	12	02
	236 Paiki			
	233	0	40	91

1	2	3	4	5	1	2	3	4	5
	232 Paiki	0	09	60		488 Paiki	0	85	20
	227	0	57	34		488 Paiki			
	226 Government	0	13	58		82 Paiki			
	Nalla	0	29	40		82 Paiki	0	22	21
	149	0	30	68		82 Paiki			
	Cart track	0	04	20		82 Paiki			
	147	0	41	29		Cart track	0	02	99
	146	0	03	11		494 Paiki			
	143	0	27	53		494 Paiki	0	40	18
	Drain	0	02	40		494 Paiki			
	137/1					39	0	68	73
	137/2 Paiki					501 Paiki	0	48	40
	137/2 Paiki					501 Paiki			
	137/2 Paiki					487 Paiki			
	137/3	0	86	03		487 Paiki	0	02	57
	137/4					487 Paiki			
	137/5					502	0	45	75
	137/6					Cart track	0	01	71
	137/7					505 Paiki			
	137/8					505 Paiki	0	29	05
	139/1					505 Paiki			
	139/2 Paiki					504	0	38	39
	139/2 Paiki	0	11	00		77/1/1 Government	4	70	63
	139/3					Nalla	0	01	42
	139/4					Nalla	0	01	43
	138/2 Paiki					519	0	28	35
	138/2 Paiki	0	53	05		Drain	0	02	85
	138/2 Paiki					520 Paiki Government	0	24	15
	135 Paiki	0	34	58		521	0	28	95
	135 Paiki					Nalla	0	13	35
Jhankhar	Nalla	0	04	85		Cart track	0	02	25
	490	0	22	50		529	0	32	10
						522	0	00	40
						77 Paiki	4	57	20

1	2	3	4	5	1	2	3	4	5
	Nalla	0	11	03		189	0	41	40
	175	0	26	55		188	0	27	35
	176	0	25	43		190	0	16	55
	Cart track	0	03	30		176	0	04	78
	177	0	11	48		177	0	15	21
	178	0	50	69		178/1	0	15	75
	Nalla	0	05	25		178/2			
	180 Paiki	0	00	76		179	0	08	94
	180 Paiki					180	0	03	09
	River	0	41	70		50/1 Paiki			
	173	0	13	43		50/1 Paiki			
	Cart track	0	02	85		50/1 Paiki	0	04	50
	174	0	46	50		50/2 Paiki			
	Cart track	0	02	85		50/3 Paiki			
	River	0	12	68		170	0	28	26
	158	0	22	50		Cart track	0	03	15
	154 Paiki	0	24	08		62	0	56	18
	154 Paiki					53/1	0	78	23
	153 Paiki	0	62	40		161	0	03	00
	153 Paiki					162	0	67	58
	150	0	22	17		165	0	11	10
	149	0	00	11		163	0	38	77
	146	0	38	48		157	0	31	35
	147/1	0	10	28		Nalla	0	04	35
	Cart track	0	02	70		155	0	12	30
	145	0	00	19		Cart track	0	07	65
	139	0	54	56		151	0	35	35
	140	0	05	40		154 Paiki	0	20	40
Jogwad	209 Government	0	19	95		154 Paiki			
	210	0	60	54		153	0	41	10
	44	0	03	58					
	43	0	71	40					
	195 Paiki	0	68	79					
	195 Paiki								
	196	0	16	54					
	River	0	06	15					

[File No. R-31015/30/96-OR.II]

K.C. Katoch, Under Secy.

दिल्ली, 6 मार्च, 1997

का.मा. 904.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल.आई.सी. ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-11-96 को प्राप्त हुआ।

[सं. एन-17012/17/87 डी. IV/आई.आर. (बी. 2)]
सनातन, ईस्क अधिकारी

New Delhi, the 6th March, 1997

S.O. 904.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of L.I.C. of India and their workmen, which was received by the Central Government on 22-11-1996.

[No. L-17012/17/87-D.IV (A)/IR (B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT PANDU NAGAR, KANPUR

Industrial Dispute No. 159 of 1987

In the matter of dispute :

BETWEEN

Shri Hira Lal Srivastava
S/o Late Shri Sankatha Prasad,
C/o K. N. Soni, 118/78, Kaushalpur,
Kanpur.

AND

The Senior Divisional Manager,
L.I.C. of India,
Divisional Office,
Gauriganj,
Varanasi.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-17012/17/87-D.IV (A) dated 23-10-87, has referred the following dispute for adjudication to this Tribunal—

"Whether the action of the management of L.I.C. of India in dismissing from services Shri Hira Lal Srivastava w.e.f. 28-6-1980 is justified? If not, to what relief the workman concerned is entitled?"

2. The concerned workman Hira Lal was admittedly appointed as Assistant with the opposite party LIC of India at Varanasi Division on 19-3-57. He was promoted as Section Head in 1962. On 29-4-77, he was placed under suspension while he was served with a chargesheet on 19-1-78 on four counts, the copy of which is annexure I of this order. One officer L. P. Choudhary was appointed as Enquiry Officer (hereinafter referred to as E.O. in short). Before him the management examined 7 witnesses besides documents were also relied upon. The delinquent did not adduce any evidence. After completing proceeding, the E.O. submitted his report on 18-10-79 (Ext. 8) by which it was held that charges 1 to 3 were proved whereas in respect of charge No. (4) 743 GI/97—6.

out of 79 items case in respect of 75 items was proved. On the basis of this report, the disciplinary authority issued show cause notice on 16-4-80 and ultimately Ext. M-7, dismissal order was passed on 28-6-1980 by Senior Divisional Manager. Feeling aggrieved by this order the concerned workman has raised the instant industrial dispute.

3. In the claim statement the concerned workman had challenged the fairness and the propriety of the domestic enquiry. It was further alleged that his appointing was Zonal Manager whereas chargesheet was signed by Sr. Divisional Manager. Further no opportunity was given to him in defence before the enquiry. Lastly it was alleged that his dismissal order has not been passed by Zonal Manager, the same is bad in law being without jurisdiction.

4. The opposite party has filed written statement in which it was maintained that inquiry was fairly and properly held. It was alleged that according to Life Insurance Corporation of India (Staff) Regulation 1960, the appointing authority of the concerned workman was Senior Divisional Manager. He had got the inquiry conducted and had passed the dismissal order which is very much in order.

5. This Tribunal had framed preliminary issue regarding fairness and propriety of domestic inquiry. By finding dated 25-4-96, it was held that inquiry was fairly and properly held; hence the case was fixed for arguments.

6. I have heard both sides regarding applicability of dismissal order and quantum of punishment. During the course of arguments the authorised representative of the concerned workman has drawn my attention to the case of State of U.P. versus Chandra Pal Singh 1996, 352. In this case Asstt. Agriculture Inspector Group 3 was appointed by Director of Agriculture. Subsequently by Government orders his appointing authority was made District Agriculture Officer. He got conducted domestic inquiry against Chandra Pal Singh and on the basis of this inquiry against the concerned workman special order was passed by Director of Agriculture. That matter was carried before State Service Tribunal which gave judgment in favour of Chandra Pal Singh. State of U.P. had preferred the writ petition and in that case it was held that initially Director of Agriculture was the appointing authority of Chandra Pal Singh. Domestic inquiry could not be got conducted under orders of District Agriculture Officer who was subsequently appointed as appointing authority of Assistant Agriculture Inspector. In other words proceedings of such domestic inquiry were vitiated. Once again the authorised representative of the concerned workman has tried to argue this point in the instant case. Had these authorities been filed while recording finding on preliminary issue the matter would have been decided in favour of the concerned workman. Now this cannot be allowed to be agitated at this stage. It can be raised as and when the matter goes before superior court in any manner.

7. Next it was alleged that in any case dismissal order is without jurisdiction. It is evident from the appointment letter dated 5-3-57, that concerned workman was appointed by Zonal Manager Ext. M-7 indicates that dismissal order was passed by P. C. Mohanti Senior Divisional Manager who is admittedly much lower in authority than Zonal Manager. It was submitted on behalf of the management that subsequently staff Regulation 1960 came into force and Senior Divisional Manager was appointed as Appointing Authority. In view of this change in Regulation Zonal Manager did not remain his appointing authority.

8. On the other hand the authorised representative of the concerned workman has drawn my attention to para 9 of the Judgment reported in the State of U.P. versus Chandra Pal Singh 1996, 352 which goes as under—

In Krishna Kumar v. The Divisional Assistant Electrical Engineer 1979-4 SCC. 289. In this case the Supreme Court was pleased to hold that subsequently delegation of power to subordinate authority to make appointment to post in question would not confer power to remove the person appointed before such delegation.

In the above para there is reference of the case of Krishna Kumar versus Div. Electrical Engineer Lab. IC 1979, 1314, I have also gone through the judgment of this case. Although this authorities go to lay down that as far as the appoint-

ing authority of the concerned workman is concerned Div. Elect. Engineer. It will be he who originally appointed him. In the subsequent change in appointing authority or delegation of authority by the appointing authority would not change the original status of appointing authority. In the instant case it has been seen that Zonal Manager had appointed the concerned workman. Subsequently by Staff Regulation 1960 Senior Divisional Manager was appointed as appointing authority. This subsequent change would not automatically make Senior Divisional Manager appointing authority of the concerned workman. Instead Zonal Manager of the LIC of India, would remain the appointing authority of the concerned workman.

9. In view of this preposition of law I over-rule the contention of the authorised representative of the management and upheld the contention of the authorised representative of the concerned workman. It is accordingly held that dismissal order of the workman by Senior Divisional Manager is without jurisdiction and honest. It could have been passed by Zonal Manager alone. The automatic result would be that the concerned workman would be deemed to be in continuous service. Hence, my award is that dismissal of the concerned workman by order dated 28-6-80 by Senior Divisional Manager is without jurisdiction and it is bad in law. As such the concerned workman will be entitled for reinstatement in service with full back wages at the rate at which he was drawing his pay for the last time.

10. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, मार्च 11, 1997

का.प्र. 905.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बोम्बे पोर्ट ट्रस्ट के प्रबंधनत्व के सख्त नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. I मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-3-97 को प्राप्त हुआ था।

[सं. एल-31012/19/90-आई.आर. (विविध)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 11th March, 1997

S.O. 905.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1 Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bombay Port Trust and their workman, which was received by the Central Government on 11-3-1997.

[No. L-31012/19/90-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice R. S Verma, Presiding Officer.
Reference No. CGIT-1/22 of 1991

PARTIES :

Employers in relation to the management of Bombay Port Trust, Bombay

AND

Their workmen.

APPEARANCES :

For the Management—Shri Umesh Nabar, Advocate.

For the Workman—Shri Khairwal, Advocate.

Mumbai, the 21st day of February, 1997

AWARD

By award dated 12th June, 1995, I have held that the domestic enquiry held against the workman Mahadeo Vithal Bansode was fair, proper and legal. The award gives the relevant facts giving rise to this part-II award and shall be treated as an integral part of this award. The facts which have been narrated in part-I award are not being repeated here.

2. By the said award, the following issues were left undecided and I propose to decide them now by this part-II award :

"(2) Whether the charge of misconduct levelled against the workman is proved to the satisfaction of the Tribunal by acceptable evidence ?

(3) Whether the punishment inflicted on the workman is justified ?"

3. I may state that I had passed award Part-II ex-parte on 13th August, 1996 as the learned counsel for the workman did not appear. However, on the application of the workman, this ex-parte award was set aside vide order dated 17-7-96 passed in Misc. Application No. 8 of 1996. I have heard the learned counsel for the parties for part two award at length and have perused the record. I may state that the arguments were concluded on 6-12-96 but since the post of Senior P.A. cum Stenographer is lying vacant for quite some time and because of constraints pertaining to rules governing the appointment, the post could not be filled. Hence, orders and awards are being written in lang hand. The typist types them out and this takes much time. Hence, the delay in passing this award Part-II.

4. The gist of the charge framed against the workman was that on 2-3-85, he was posted for Watchman's duty at shed No. 6 of the Indira Open Docks. His duty commenced at 7.30 a.m. and he was to remain on duty till 4 p.m. However, at about 1.30 noon, he was seen attempting to go out of the premises with a Rexin bag. He was accosted by the Police at turnstile gate (Chakri gate) and was detained. He was, on search by Police attached to Y.G. Police station, found in possession of 34 rubber fan belts, one Khaki Cap and one Shirt was also found in the bag.

5. The workman did not deny that he was apprehended with a rexin bag containing 34 fan belts, a cap and a shirt but his explanation was that he had found the rexin bag and was taking it for handing over to the Police and was apprehended meanwhile.

6. At the domestic enquiry, the management examined PW-1 D. N. Khushale, PW-2 Raman Hariha Kirat, PW-3, Pradeep Narayan Thanekar, PW-4 Prakash Bapu Sawant, PW-5 Anil Gopinath Bhatkar and PW-6 Vijay Damodar Deshpande. Some documentary evidence was also adduced. The workman examined DW-1 Ramchandra P. Jadhava and himself as DW-2.

7. At the outset, I may state that standard of proof to establish a charge in domestic enquiry is not as strict as in a criminal case. In a criminal case, the charge has to be established beyond reasonable doubt. In a domestic enquiry, the charge has to be established on basis of preponderance of probabilities. Moreover, certain evidence which may not be admissible at a criminal trial would still be acceptable evidence at a domestic enquiry. It would be in this perspective that the evidence adduced at the domestic enquiry shall have to be evaluated.

8. I am aware that if an accused is honourably acquitted in a criminal case, then ordinarily he is entitled to be exonerated in a domestic enquiry, which is based on the self-same charge. However, if the evidence adduced at the domestic enquiry is not identical but is different and establishes the charge, person can be still held guilty of the charge.

9. PW-2 Raman Hariba Kirat is the most important witness of the case. It was he who had checked the workman, while he was coming out of the Chakri Gate. The material portion of his testimony is as follows :

"On 2-3-85 I was attached to the Yellowgate Police Station and I was posted for duty at Yellowgate chakri from 8.00 a.m. to 8.00 p.m. It was my duty to check the persons moving out and going in through the chakri. At about 1.15 p.m. the CSE was moving out from the docks. He was carrying rexin bag in his right hand. I stopped the CSE at the chakri and requested the CSE to open his bag. However, the CSE refused to open the said bag. The CSE informed me that he was a BPT Watchman (at that time the CSE was not in uniform) and refused to open the bag. I, therefore, was suspicious. I informed Woman Constable No. 93 and requested her to intimate the Duty Officer at the Y/gate Police Station. After sometime Shri Kusale came from the Y/gate Police Station along-with his staff, and P/C No. 93. In the meantime I had detained the CSE at the place of the incident. Thereafter in the presence of the panchas the rexin bag was opened and 34 rubber belts (fan belt) were found. There were 29 thick fan belts and 5 thin belts. They were made in Germany. In the rexin bag there was also a Watchman cap and a shirt (uniform). The CSE was interrogated as to from where the said goods were stolen by him. The CSE informed that the said materials were brought from inside the docks. However, the CSE did not give proper reply on interrogation. Thus we drew a conclusion that the said material was stolen by the CSE from the docks. Thereafter the said materials along with the CSE were taken into custody and the CSE arrested and taken to the Police Station."

This witness was subjected to cross-examine but nothing has been elicited which may go to shake his testimony. Question No. 2 put to him in cross-examination and answer given thereto goes to strengthen the case of the department. It is worthwhile to quote the same. It reads as follows :

"Q. 2 : I put it to you that CSE had told at the gate that he picked up the bag while taking round in the docks and was taking the same to handover the same at the chakri gate. What have you to say.

A : He did not tell me anything as stated above. However, the CSE informed me that he wanted to go out of the gate and I told him that until and unless he showed me the bag he will not be allowed to go out."

It has not been shown that the witness had any previous enmity or grudge against the workman. It does not appear that this important witness was examined by the prosecution at the criminal trial, as would be evident from the copy of the judgment of the Metropolitan Magistrate dated 19-9-85, placed on record by the workman as annexure 'B'.

10. Prakash Baba Sawant is the other witness, who was present on the spot when the workman was accosted by witness R. H. Kirat. He also corroborates the testimony of the earlier witness. This witness was also not examined at the criminal trial, which is quite surprising. The initial conduct of the workman's not opening the bag when asked to open the same goes to show his criminal intention.

Anil Gopinath Bhatkar, who also reached the spot corroborates this testimony. There is nothing in the cross-examination of these witnesses which may go to discredit their testimony.

11. Now the conduct of the workman on being accosted by this witness is very material and establishes the guilt of the workman. The statement of this witness is amply corroborated by the testimony of PW-1 Dasarut Kushale who had reached the spot soon afterwards, on being summoned to the spot. He has stated as follows :

"I know the CSE. On 2-3-85 I was attached to VG Police Station. On that day I was on Station House duty from 8 a.m. to 8 p.m. At about 1 p.m. or so Woman Head Constable No. 93, Mrs. Kandari came to the Police Station and reported that one W/man was caught at Yellow gate YG Chakari by PN No. 11992. On receipt of the said information I visited the place and saw the CSE he was holding a rexin bag in his right hand. On seeing this I immediately summoned two panchas and in their presence his bag was searched. When the said bag was found containing 29 big and 5 small pieces of rubber fan belts made in Germany. I also noticed one Khaki shirt and cap in the bag. He was then questioned about the said property but he could not give any satisfactory reply. I then recorded the statement of PN 11992 and brought the said accused and with the property to the police station. Before recording the statement the panchanama was drawn inside the Yellow gate Chakri. I draw the panchanama at about 1.30 to 2.00 p.m. and thereafter obtained the signature of the panchas thereon."

Nothing has been elicited in cross-examination of this witness, which may go to discredit his testimony.

12. Exh. 3 is a written report of interrogation signed by the accused workman, wherein he stated as follows :

"I am as above and resides at above given address. I am working in BPT as a Security Watchman and my buckle No. 263. I am working in BPT since last 10 years. Today i.e. on 2-3-1985 at 8.00 a.m. I reported for duty at Booking Office (Zonal Office). I directed by duty clerk to go to 6 Indira Dock open area for patrolling. While I was patrolling around cargo in open place 6 Indira Dock. I noticed 34 big and small fan belt made in Germany were lying hidden below the cargo so I took 34 fan belt and kept in my rexin bag at about 12.30 a.m. At about 1.00 p.m. or so while I was passing through Chowki Yellow Gate, I was detained by Police while on duty and asked me to show the bag but I refused to show him. He then detained me and informed to Yellow Gate Police Station. S.I. Kusale arrived on the spot and took charge of rubber fan belt under panchanama.

I admit and pray for mercy."

[This document contains a complete admission of the guilt of the workman. The workman has not explained as to why he made the admission contained in this statement.

13. The explanation of the workman in his statement was that he had found the rexin bag in an abandoned condition and was taking the same to be delivered to the police. However, his conduct on being accosted is not consistent with the explanation and it appears that the explanation was an immediate after thought on being detained. The testimony of his witness R. P. Jadhava does not help his case in any material way. I, therefore, find that the charge against the workman has been substantially proved. The defence of the workman is merely an immediate after thought to save his skin and does not inspire confidence and I reject the same.

14. Learned counsel for the workman has placed reliance upon a ruling of Bombay High Court to show that the act of the workman did not amount to misconduct and was at best preparation of misconduct. The first precedent in this regard is judgment of Bombay High Court in Writ Petition No. 1841 of 1985 decided on January 25, 1991. In this case, one Inspector of Police had scribbled an application and had given the same to one Shetty to be signed and to be sent to higher authorities, to put his colleagues in trouble. The application does not appear to have been so sent. Hence, it was held that it did not constitute an offence. The facts of the present case are quite different. The workman was accosted while going out but initially did not give satisfactory answers about the contents of the

bag and refused the Police to show the contents of the bag. This conduct in the particular circumstances of the case did constitute grave misconduct.

13. Then it was contended that this Tribunal has the power to award lesser punishment u/s. 11-A of the I.D. Act. There can be no doubt that this Tribunal does possess this power. Learned counsel for the workman cited 1981 Lab. I.C. 356 Himachal Road Transport Corporation. It was a case of misappropriation of Rs. 401.80 and the Labour Court held dismissal to be harsh and reduced the punishment. The High Court refused to interfere.

16. Another case cited in 1981 LIC 233 Travencore Cochin Ltd. In that case workman had unblemishable service of 16 years. He was charged for forgery etc. The charges were not proved. The only fact proved was that he made some over payment. The Tribunal directed reinstatement and the High Court declined to intervene. The facts of this case are also different.

17. Another case cited is that of Parmar 1982 LIC 1031 where there was a petty theft scrap worth Rs. 50. Labour Court took a strange view that powers u/s. 11-A of the I. D. Act can be exercised only when worker does not contest the proceedings and pleads for mercy. It was held that the view was bad. In the particular circumstances of the case, penalty of removal from service was held to be harsh. It may be stated that the case did not pertain to a Watchman but to an ordinary labour.

18. In National Textile Corporation case 1992 II CLR 385, the theft was of Tinopal worth Re. 1. The precedent can not be applied to the facts of the present case. Similar was the case of Ganikhan 1992 II CLR 117 where diesel worth less than Rs. 10 was pilfered. The said case has also no application to the facts of the present case. Fan belts are costly things and it was not one or two fan bells but 34 fan belts, which the workman pilfered, while he was supposed to protect them.

19. Now, I may consider the question of punishment in the light of the said rulings. Expensive properties received in the dockyards need protection. The Watchmen deputed to keep watch on the properties lying unattended in the docks are expected to act and behave in an exemplary manner. Theft or pilfering of property lying in the docks is a very grave offence. In my opinion, punishment of dismissal was the only proper punishment to be inflicted on the workman. The same is quite just and proper and the workman is not entitled to any relief at the hands of this Tribunal. I make an award accordingly.

R. S. VERMA, Presiding Officer

नई दिल्ली, 17 मार्च, 1997

का.आ. 906.—केन्द्रीय सरकार का समाधान हो गया है कि लोकहित में ऐसा अपेक्षित है कि करेसी नोट प्रेस, नासिक रोड जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची में प्रविष्टि 25 पर निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द) के उपखंड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारत प्रतिभूति मुद्रणालय, नासिक को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः माह की अवधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एस-11017/3/91-आई.आर. (नी.विधि)]

एच. सी. गुप्ता, अवर सचिव

New Delhi, the 17th March, 1997

S.O. 906.—Whereas the Central Government is satisfied that the public interest requires that the services in the Currency Note Press, Nasik Road which is covered by item 25 of the First Schedule to the Industrial Dispute Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/3/91-IR (PL)]

H. C. GUPTA, Under Secy.

नई दिल्ली, 17 मार्च, 1997

का.आ. 907.—केन्द्रीय सरकार सन्तुष्ट है कि लोकहित में यह अपेक्षित है कि बैंक नोट प्रेस, देवास (म.प्र.) में सेवा, जो औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची में प्रविष्टि 22 द्वारा सम्मिलित है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा घोषित की जानी चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द) के उपखंड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः माह की अवधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एस-11017/4/97-आई.आर. (पॉलिसी)]

एच. सी. गुप्ता, अवर सचिव

New Delhi, the 17th March, 1997

S.O. 907.—Whereas the Central Government is satisfied that the public interest requires that the services in the Bank Note Press, Dewas (MP) which is covered by item 22 of the First Schedule to the Industrial Dispute Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/4/97-IR(PL)]

H. C. GUPTA, Under Secy.

नई दिल्ली, 17 मार्च, 1997

नई दिल्ली, 21 मार्च, 1997

का० आ० 908.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द्व) के उपखंड (6) के उपबन्धों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का०आ० 2714 दिनांक 9 सितम्बर, 1996 द्वारा बैंकिंग उद्योग को जो उक्त अधिनियम की धारा 2 के खंड (ख) में परिभाषित बैंकिंग कम्पनी द्वारा चलाया जाता है, उक्त अधिनियम के प्रयोजनों के लिए 19 सितम्बर 1996 से छह माह की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था,

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है,

अतः अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द्व) उपखंड (6) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के लिए, 19 मार्च, 1996 से छह मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एस-11017/5/97-आई०आर० (पॉलिसी)]

हजी चन्द गुप्ता, अवर सचिव

New Delhi, the 17th March, 1997

S.O. 908.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Dispute Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 2714, dated 9th September, 1996, the Banking Industry carried on by a Banking Company as defined in clause (bb) of Section 2 of the said Act to be a public utility service for a period of six months, from the 19th September, 1996.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 19th March, 1997.

[No. S-11017/5/97-IR(PL)]

H. C. GUPTA, Under Secy.

का० आ० 909:—कर्मचारी भविष्य निधि योजना, 1952 के पैराग्राफ 52 के उप पैराग्राफ (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, और भारत सरकार के श्रम मंत्रालय की दिनांक 20 सितम्बर, 1996 की अधिसूचना का०आ० संख्या 2825 का अधिष्ठापन करते हुए, केन्द्रीय सरकार पत्रद्वारा निदेश देती है कि निधि से संबंधित सभी धनराशियों को निम्नलिखित पैटर्न के अनुसार निदेश किया जाएगा, अर्थात् —

निवेश पैटर्न	निवेश किए जाने वाली राशि का प्रतिशतांक
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(i) केन्द्रीय सरकार प्रतिभूतियां	पच्चीस प्रतिशत
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(ii) (क) किसी राज्य सरकार द्वारा सृजित और जारी की गई सरकारी प्रतिभूतियां जैसा कि लोक श्रृण अधिनियम 1994 (1994 का 18) की धारा 2 में परिभाषित किया गया है, तथा/अथवा	पन्द्रह प्रतिशत
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(ख) ऐसी अन्य परक्राम्य प्रतिभूतियां जिनकी मूल राशि तथा उसके व्याज को केन्द्रीय सरकार अथवा किसी राज्य सरकार द्वारा पूरी तरह से बिना शर्त गारंटी प्रदान की जाती है, उनमें निम्नलिखित

(iii) (क) के अन्तर्गत आने वाली प्रतिभूतियां शामिल नहीं हैं।

(iii) (क) कंपनी अधिनियम की धारा 4(क) में निविष्ट "लोक वित्तीय संस्थाओं के बांड/प्रतिभूतियां, आयकर अधिनियम, 1961 की धारा 2(36)(क) में यथा परिभाषित" सरकारी क्षेत्र की कंपनियां जिनमें सार्वजनिक क्षेत्र के बैंक शामिल हैं और/अथवा	चालीस प्रतिशत
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(ख) सरकारी क्षेत्र के बैंकों द्वारा जारी जमा राशियों के प्रमाण-पत्र

(iv) न्यासी बोर्ड द्वारा लिए गए दोस प्रतिशत निर्णय के अनुसार उपर्युक्त तीनों श्रेणियों में से किसी में भी निवेशित की जानी है।

2. पूर्ववर्ती निदेशों की पर्याप्तता पर प्राप्त होने वाली धनराशियों में से आवश्यक व्यय को घटा कर शेष का इस अधिसूचना में निर्दिष्ट नए निवेश पैटर्न के अनुसार निवेश किया जाएगा।

3. विशेष जमा योजना पर प्राप्त व्याज को विशेष जमा योजना के अंतर्गत ही निवेश किया जाएगा। इसी प्रकार अन्य श्रेणियों के अंतर्गत प्राप्त व्याज की धनराशि का उसी श्रेणी में फिर से निवेश किया जा सकता है।

1. उपर्युक्तित पैराग्राफों में यथा परिकल्पित निवेश पैटर्न को वित्तीय वर्ष की समाप्ति तक पूरा कर लिया जाएगा तथा यह 1 अप्रैल 1997 से प्रभावी है।

[फा.संख्या जी-20015/2/93-एम.एस.II]

जे.पी. शुक्ला, अवर सचिव

New Delhi, the 21st March, 1997

S.O. 909.—In exercise of the powers conferred by Sub-paragraph (1) of Paragraph 52 of the Employees' Provident Funds Scheme, 1952 and in supersession of the notification of the Government of India in the Ministry of Labour No. S.O. 2825 dated the 20th September, 1996, the Central Government hereby directs that all incremental accretions belonging to the Fund shall be invested in accordance with the following pattern namely :—

Investment Pattern	Percentage of Amount to be Invested
(1)	(2)
(i) Central Government Securities	Twenty Five percent.
(ii) (a) Government Securities as defined in Section 2 of the Public Debt Act, 1944 (18 of 1944) created and issued by any State Government, and/or	Fifteen percent.
(b) Any other negotiable securities principal whereof and interest whereon is fully and unconditionally guaranteed by the Central Government or any State Government except those covered under (iii) (a) below.	
(iii) (a) Bonds/Securities of 'Public Financial institutions' as specified under Section 4(a) of the Companies Act; "public sector companies" as defined in Section 2 (36-A) of the Income Tax Act, 1961, including public sector banks and/or	Forty percent
(b) Certificates of deposits issued by public sector banks.	
(iv) To be invested in any of the above three categories as decided by the Board of Trustees.	Twenty percent

2. Any moneys received on the maturity of earlier investments reduced by obligatory outgoings, shall be invested in accordance with the investment pattern prescribed in this Notification.

3. Interest received on the Special Deposit Scheme shall be invested in the Special Deposit Scheme itself. Similarly, interest received under other categories shall be re-invested in the same category.

4. The investment pattern as envisaged in the preceding paragraphs may be achieved by the end of a financial year and is effective from 1st April, 1997.

[F.No.G-20015/2/93-S.S.II]

J. P. SHUKLA, Under Secy

नई दिल्ली, 10 मार्च, 1997

का० प्र० 910:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत सरकार मुद्रणालय, मुम्बई के प्रबन्धनत्व के संबन्धित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं० 2, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-3-97 को प्राप्त हुआ था।

[संख्या एल-16012/1/95-आई आर (डी यू)]

के०वी०बी० उपाधी, डैस्क अधिकारी

New Delhi, the 10th March, 1997

S.O. 910.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of India Government Mint, Mumbai and their workman, which was received by the Central Government on 7-3-97.

[No. L-16012/1/95-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI
PRESENT :

Shri S. B. Panse, Presiding Officer
Reference No. CGIT-2/20 of 1996

Employers in relation to the Management of
India Government Mint, Mumbai.

AND

Their Workmen

APPEARANCES :

For the Employer—Mr. B. M. Masurkar,
Advocate.

For the Workmen—Mr. H. A. Sawant, Advoca-
vocate.

Mumbai, dated 18th February, 1997

AWARD

The Government of India, Ministry of Labour by its order No. L-16012/1/95-IR(DU) dated 27th March '96 had referred to the following Industrial Dispute for adjudication.

“Whether the action of the management of the Govt. of India Mint, Bombay in terminating the services of Shri Jayant A. Pimple, Sub-Inspector is legal and justified? If not, to what relief the workman is entitled to?”

2. Jayawant Arjun Pimple, the workman filed statement of claim at Exhibit-4. He contended that he was employed in the India Government Mint, Mumbai as an Inspector of Security on 2nd November, 1991 in the scale of Rs. 1440-40-1800-EB-50-2300. He is an ex-service man and his employment was as per the rules for service for ex-servicemen.

3. The workman pleaded that he served for one year seven months approximately. He received the termination letter from the office on 1-7-92. It is contended that in that letter that the temporary ad-hoc appointment of Pimple, sub-inspector is hereby terminated w.e.f. the forenoon of 1-7-92. He then approached the Regional Commissioner for redress.

4. The workman pleaded that during his service there were no complaints against him. The other employees of the Mint were also shocked due to the termination of the worker. They made a representation to the management to reinstate the workman. But it was of no use. It is averred that he was working sincerely and honestly it is averred that when his services worsen terminated abruptly on the same day one Mr. Jadhav was appointed as a sub-inspector in the vacant post against which the workman was working. It is pleaded that he was not granted yearly increment even though he completed one year of service. It is pleaded that the workman was serving on a permanent post and the vacancy exists there but the initial appointment was an ad-hoc. It is submitted that the word temporary has been scored out in the appointment letter indicating that the post is permanent. It is pleaded that the ad-hoc service was terminated on 12-11-92 and again he was appointed on 3-11-92 giving one days break in the continuity of the service and was finally terminated on 1-7-93. But the worker has completed 240 days continuous service in the year. His termination is illegal. It is submitted that the termination of the worker is against the provisions of the Industrial Disputes Act and clear violation of its provisions. He therefore prayed that he may be reinstated in service with full back wages and consequential benefits.

5. The management resisted the claim by the written statement Exhibit-5. It is averred that Pimple is not worker within section 2(s) of the Industrial Disputes Act of 1947. It is averred that his nature of job is of a supervisory nature and the salary which he is drawing exceeds Rs. 1,600 per month resulting into taking him out of the definition of the worker under the Industrial Disputes Act of 1947. Under such circumstances it is pleaded that the Tribunal had no jurisdiction to decide the reference.

6. Without prejudice to the above contention the management pleaded that the appointment of Pimple is as per the letter dated 2-11-91 and

not by letter dated 21-10-91. The letter of appointment clearly indicates that the appointment is an ad-hoc basis on temporary capacities for a specific period of six months and the period was extended from time to time. It is pleaded that as an ad-hoc appointment it cannot be expanded for more than one year. He was terminated on 2-11-91. It is averred that in absence of the recruitment rules the applicant cannot be absorbed in the permanent capacity after a period of one year. The service of the applicant were terminated in exercise of the powers vested in appointing authority of Rule-5 of the Central Civil Service (temporary service rules) 1965. Hence the discharge was a termination simpliciter. It does not dispute that the post is of a permanent nature. It is accepted that one Mr. Yadav was appointed in his place. It is averred that the service of Pimple was terminated as per the conditions laid down in the form of appointment dated 21-10-91 which were accepted by him. It is denied that he was discharged in contravention of section 25(F) of the Industrial Disputes Act. As this is not the case of a retrenchment but a case of valid exercise of the powers under the Central Civil Services (temporary service rules). It is prayed that under such circumstances the Tribunal may uphold the action of the management.

7. Pimple filed a rejoinder at Exhibit-9. It is denied that he is not a worker and the Tribunal has no jurisdiction to decide the reference. It is denied that his nature of job is of supervisory nature. He reiterated the contentions taken in the statement of claim.

8. The issues that fall for my consideration and findings there on are as follows :—

Issues	Findings
1. Whether the action of the management of Government of India, Mint, Bombay in terminating the services of Pimple sub-inspector is legal and justified?	Legal and justified
2. If not, to what relief the man is entitled to?	Does not survive.

REASONS

9. At the outset it must be said that even though in the written statement the contention regarding the jurisdiction is taken no cross-examination was carried out of Mr. Pimple in respect of that point nor evidence is lead by Mr. Tripathi (Exhibit-13) the witness for the management. I therefore does not think it necessary to dialect over that.

10. Pimple (Exhibit-11) in categorical term admits his service is governed as per the terms of appointment letter. Tripathi (Exhibit-13) who is the financial advisor and Chief accounts officer affirmed that they had not given any artificial breaks to Pimple. He was appointed as a sub-

inspector, temporary on ad-hoc basis. The initial appointment was six months and it was extended from time to time. He never completed one year service. According to him his service was not satisfactory but no disciplinary action was taken against him. It is therefore he continued to be in service as alternative was not available. One Yadav was appointed on the same day when Pimple's services were terminated. He denied that they do not follow the rules.

11. Mr. Masurkar, the Learned Advocate for the management argued that as per the term of appointment dated 2-11-91 he was appointed as sub-inspector in a temporary capacity w.e.f. 2-11-91 on ad-hoc basis for a period of six months as per the terms and conditions mentioned in the offer of appointment letter dated 21-10-91 which was accepted by Pimple. The offer of appointment letter is at Exhibit-10, pg. 3. It can be further seen that this appointment was extended initially for three months, again for three months. On the same terms and conditions as mentioned in the diary order No. 157 dated 11-2-91. Then by diary order No. 186 dtd. 31-10-92 an ad-hoc appointment of Pimple sub-inspector was terminated w.e.f. 2-11-92. Then from 3-11-92 he was appointed for three months. Then again for two months. Then again one month and then again for one month and by order No. 85 dated 2-6-93 his ad-hoc appointment was extended up to 30-6-93 or till alternative arrangement is made whichever is earlier. It can be seen that thereafter that is on 1-7-95 his appointment was terminated. In fact as the period of appointment was over it automatically terminated the service. The Learned Advocate for the management rightly argued that there is nothing like termination but his service came to an end by reflux of specified period of service. Therefore the contentions of Pimple that no notice was given nor any retrenchment compensation was paid to him is without any merit.

12. The appointment of Pimple was temporary and on ad-hoc basis. Therefore the contention that he has completed 240 days of continuous service in a year is without any merit. I do not find any merit in the same. Mr. Sawant, the Learned advocate for the workman placed reliance on Union of India v/s. Presiding Officer Central Government Industrial Tribunal Jabalpur Vol. 87 Factories Journal page. 232. The facts of that case are quite different than the facts before me. For all these reasons I record my findings on the issues accordingly and pass the following order :

ORDER

The action of the management of the Government of India Mint Bombay in terminating the service of Shri Javant A. Pimple, Sub-Inspector, is legal and justified.

S. B. PANSE, Presiding Officer

नई दिल्ली, 11 मार्च, 1997

कां०आ० 911:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक घर, देहरादून के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-3-97 को प्राप्त हुआ था।

[सं० एल-40012/42/91-आई आर (डी यू)]

के०वी०बी० उण्णी, डेस्क अधिकारी

New Delhi, the 11th March, 1997

S.O. 911.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Post Offices, Dehradun and their workman, which was received by the Central Government on 11-3-1997.

[No. L-40012/42/91-IR(DU)]

K.V.B. UNNY, Desk Officer.

ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL : NEW DELHI

I. D. No. 130/91

In the matter of dispute :

BETWEEN

Shri Rakesh Kumar S/o Kali Charan

C-28 P&T Colony.

Chankhuwala, Dehradun-248001.

Versus

Senior Superintendent,

Post Offices, Dehradun Division,
Dehradun-248001.

APPEARANCES :

R. P. Goel for the workman.

Shri M. K. Sharma on behalf of Sh. Anil Sehgal for the management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-40012/42/91-I.R.D.U. dated 30-9-91 has referred the following industrial dispute to this Tribunal for adjudication :

“Whether the action of the management of Sr. Supdt. of Post Offices, Dehradun in

743 GI/97—7.

terminating the services of Shri Rakesh Kumar, S/o Shri Kalicharan w.e.f. 25-7-90 (AN) is justified? If not, to what relief is the workman entitled and from what date?”

2. The case was fixed at the stage of arguments when the representative for the workman made statement that the Hon'ble Supreme Court in C.A. No. 3385-86 of 1986 with C.A. No. 3392 of 1996 etc. & CA 2344 of 1994 decided on 2-1-96 has held that the P&T was not an 'Industry' and he, therefore, did not want to proceed with this dispute. In view of this settlement of the representative for the workman a No dispute award is given in this case. However, the workman is at liberty to go to any other forum for determination of his rights according to law. Parties are left to bear their own costs.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 14 मार्च, 1997

कां०आ० 912:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पूणे सब एरिया कानटीन, पूणे के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पूणे के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-3-97 को प्राप्त हुआ था।

[सं० एल-14011/1/93-आई आर (डी यू)]

के०वी०बी० उण्णी, डेस्क अधिकारी

New Delhi, the 14th March, 1997

S.O. 912.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, PUNE as shown in the Annexure, in the industrial dispute between the employers in relation to the management of PUNE SUB-AREA CANTEEN, PUNE and their workman, which was received by the Central Government on 13-3-1997.

[No. L-14011/1/93-IR (DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI S. S. HIRURKAR, MEMBER INDUSTRIAL TRIBUNAL, PUNE

REFERENCE (IT) NO. 2 OF 1995.

BETWEEN

Maha Defence Civilian Canteen, Pune-1.

— First Party

AND

Their Workmen. Second Party

In the matter of :—

“Whether the action of the management of Pune Sub-Area—Canteen in terminating the service of Shri P. Umapathy and Shri S. Joshi, w.e.f. March, 1991 was lawful, just and proper ? If not, what is the relief to which the workmen are entitled to ?”

APPEARANCES :—

Shri S. B. Malegaonkar, Advocate for the Second Party workmen.

Shri A. N. Kulkarni, Advocate for the First Party Management.

AWARD

1. This is a Reference adjudicated by the Government of India, Ministry of Labour, Mantralaya, New Delhi, to this Tribunal, regarding the industrial dispute existing between the Management of Maha Defence Civil Canteen, Pune, the Commander, Pune Sub-Area, and the Chairman, Canteen Managing Committee, Pune Sub-Area Canteen Pune Sub-Area, Head-Quarter, Pune—411 001, and the workmen in respect of the matters, specified in the Schedule, annexed to the order of Reference.

2. The said Reference had been adjudicated by the Government of India, in exercise of the powers conferred by Clause (d) of Sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947.

3. The Schedule of the Reference reads as under :—

“Whether the action of the management of Pune Sub-Area, Canteen in terminating the services of Shri P. Umapathy and Shri S. Joshi, w.e.f. March, 1991, was lawful, just and proper ? If not, what is the relief to which the workmen are entitled to ?”

4. Consequent upon the receipt of the said Reference notices were issued to the parties. The Second Party, concerned workmen i.e. Shri P. Umapathy and Shri S. Joshi, appeared in the Court and filed their Statement of claim at Ex. U-5.

5. The first party management the Commander, Pune Sub-Area, and the Chairman, Canteen Managing Committee, Pune Sub-Area Canteen, Pune Sub-Area, Head-Quarter, Pune—411 001, filed its written Statement at Ex. C-3.

6. Brief facts, giving rise to the present Reference, according to the Statement of Claim, filed by the second party, can be stated as under :—

The second party comprises of two workmen by name (1) Shri P. Umapathy and (2) Shri S. Joshi, who are the workmen, within the meaning of Section 2(s) of the Industrial Disputes Act, 1947.

Both the workmen were working as a Sales-Assistants in the Liquor Section of the first party and the nature of his duties included the storing of the liquor bottles, keeping accounts and issuing bottles and preparing the bills and collecting the cash. The work performed by these two employees was basically manual and clerical in nature. Both of them were permanent employees and were serving with the first party for the years together.

7. The first party is an ‘industry’ within the meaning of Section 2(i) of the Industrial Disputes Act, 1947, called as Pune Sub-Area Canteen Head-Quarters. It is having its Standing Orders together with the guidelines which covers all the areas of the Industrial Employment and the Reference has been made by the Government of India, specified by way of Notification.

8. These two workmen, (here-in-after referred to as the second party) were issued with the charge-sheet on 2-3-1991 and in the said charge-sheet, it was alleged (a) wilful violation of the rules, instructions and the procedure regarding sale of liquor and (b) gross negligence and dereliction of duty. It is the contention of the second party that the charge-sheet is false, vague and illegal. The charge-sheet speaks that the second party sold the liquor bottles some Civilians of the R.T.O. Office but did not take their health permits and that the Canteen Security conducted a search of the concerned persons and confiscated the liquor items and deposited the same in the custody of the Canteen guard. The name of the person, who was searched, was also not mentioned in the said charge sheet. The explanation to the said charge-sheet was called on 9th March, 1991.

9. The second party, by the letter dated 14-3-1991, asked for the explanation to the charge-sheet asking the names and the addresses of the so called persons, who had come to the Canteen and taken the bottles. Their depositions were also called for together with the copies of the Standing orders. It was also made clear that the Standing orders were being suitably amended to victimize the second party. The Second Party, again by the letter dated 19-3-1991, informed the first party that, their letter dated 14-3-1991 has not been complied-with. The Second party also stated in the said letter that he would like to cross-examine so-called R.T.O. people and that the information asked for be provided to them. By the letter dated 19-3-1991, the first party has rejected the application of the second party, dated 19-3-1991 and held that their explanation is unsatisfactory and has not been accepted by the management and that the enquiry was fixed on 23-3-1991 and the same was to be conducted by one Col. B. W. Farnandis. This letter dated 19-3-1991 was signed by J. S. Alawat, who was the Secretary of the Canteen Managing Committee. The second party, by the letter dated 21-3-1991, requested the first party that they be allowed to be represented through their friend who is an Advocate as well as the colleague in social service. The said letter was unanswered till to day.

10. There after, on 23-3-1991, confidentially amended the charge-sheet, adding one more charge of

dis-honesty and lack of integrity. The first party has changed the Enquiry Officer. No reason for such a change was mentioned in the confidential change of the next Enquiry Officer and another Enquiry Officer by name—Shri S. B. Salunke was appointed by the letter dated 22-3-1991.

11. On 20-4-1991, the newly appointed Enquiry Officer informed the Second Party that the Enquiry Officer will investigate only two charges. The third charge, however, was missing in the letter dated 20-4-1991. Lt. Col. V. G. Ashtekar was appointed as a Presenting Officer of the first party for the enquiry.

12. The enquiry was commenced on 23-4-1991 in the Canteen premises and Lt. Hari Asra was examined and cross-examined. On 26-4-1991, Lt. Col. J. S. Alawat was examined and cross-examined. He was unduly protected by the Enquiry Officer. On 26-4-1991, Subedar Dilip Singh was examined. On 27-4-1991 Mr. C. L. Sethi, the Assistant Manager was examined and cross-examined. On the same day, one Shri Maruti Patil was also examined.

13. On 4-5-91, the Second party sent a letter to the Enquiry Officer that the charge-sheet was incorrect. While narrating the same, Lt. Col. Alawat made frequent interruption, which were not regarded by the Enquiry Officer. Then on 4-5-1991 itself, it was objected by the Second Party that the Enquiry Officer is not regarding the objections raised by the second party neither he was taking signature on every sheet of the proceeding and not taking the changes and protect Lt. Col. J. S. Alawat beyond reasonable extremes and the permission sought to re-examine him was also denied. The enquiry proceedings were not allowed to be signed by the second party, on every page. The second party was only allowed to sign the last page of the enquiry proceedings. The first party had an ulterior motive to change the papers of the enquiry, which were in the hand-writing of the Enquiry Officer Shri Salunke. Despite taking objections, the enquiry papers were not allowed to be signed. The enquiry report as well as the papers were not handed-over to the Second Party even after the enquiry was over. The Second Party was given copy of the same in the office of the Labour Commissioner that the second party is shocked to see that all the pages of the enquiry proceedings are changed by the Enquiry Officer. They are not same questions and answers which were recorded in the enquiry. During the change of the papers, the Enquiry Officer has committed certain errors by changing the numbers.

14. When the full enquiry was over, the first party on 8-5-1991, again amended the charge-sheet for the second time. The Second amendment was after the enquiry was over and it was objected to very strongly, by a letter dated 8-5-1991, wherein, it was made clear that the second amendment is only after looking at the depositions till today. As the charge-sheet is amended after the enquiry was over, any action, based on such a charge-sheet, is illegal for want of evidence and the examinations on the same.

15. Thereafter, on 13-5-1991, the second party had received a letter, signed by the Presiding Officer, asking the Second Party to report for the enquiry. The said letter is given, after the depositions and the examination-in-chief of the second party was over. The said letter was, however, objected to by the second party by the letter dated 14-5-1991. The second party made it clear that they are not available at the said time, on the medical ground. It was also made clear that the recording of any statement, on behalf of the first party, would be illegal, when the evidence of the second party was already over. The presenting officer, again on 13-7-1991, when he had no authority, informed the second party, when the evidence of the second party was over that an enquiry will be commenced from 15th July, 1991 (15-7-1991.). The second party, on 25-7-1991, informed the first party that they have not received a copy of the rules since 21-6-1991. However, a copy of the rules was not provided.

16. On 23-8-1991, the second party was served with the termination letter, wherein, it was stated that the services of the second party were terminated, retrospectively from 21-3-1991. By the letter dated 12-9-1991, it was informed by the second party to the first party, that the copy of the Enquiry Report has not been given to them. Hence, full matter he reviewed. But the said letter was un-answered. Thus, the first party has committed the gross violation of the principles of natural justice and provisions of Industrial Disputes Act, 1947. When the enquiry was over, another witness Shri Bansode from the R.T.O. office was examined on 14-5-1991. Shri Bansode, who is vehicle Inspector deposed that he had never visited the Sub-Area Canteen in his life and that he was visiting it for the first time. Thus, the question of procuring the liquor bottle from the canteen did not arise. Though the said witness denied regarding procuring the liquor bottle, the first party has held that the charges against the second party were proved and on the basis of the enquiry conducted by the first party, which was nothing but a false one, the punishment of termination was given. It being shockingly dis-proportionate, the second party has prayed for re-instatement with full back-wages and continuity of service from the date, on which the first party put them under suspension.

17. The first party management has filed its written statement at Ex. C-3. The brief facts of the case of the first party can be gathered as under:—

The preliminary objection, raised by the first party was that the concerned employees, in this reference, are salesman and therefore, they are not workmen within the meaning of sec. 2(s) of the Industrial Disputes Act, 1947 and hence, this Court has no jurisdiction to entertain the present Reference.

18. The next point raised by the first party is that the Reference is liable to be dismissed for the non-joinder of the necessary parties. It was further submitted by the first party that the establishment of the first party, being the Defence Establishment, requires full intercession, discipline and devotion to duties from its employees. However, both these employees have utterly failed to display interality and devotion to duty and discipline and therefore, both the delinquents

are liable to be dismissed from their services. However, their services were terminated after holding a fullfledged domestic enquiry, giving full, fair and final opportunity to defend the charges levelled against them, in compliance with the principles of natural justice.

19. It is also contended by the first party that establishment of the first party is governed under the authority of the Central Govt. and as such, the Appropriate Govt. in respect of the said dispute would be the Central Govt. and as such, this Tribunal has no jurisdiction to try and entertain the present Reference. It is also stated by the first party that the reliefs claimed under Clause (6) of the prayer clause in the statement of claim could not be granted to the second party, unless the Tribunal holds that the domestic enquiry held by the employer is not fair, proper and legal. It is then submitted that in view of this legal and factual submission, the present Reference is not maintainable under the law and therefore, it deserves to be dismissed with costs.

20. The first party has denied the allegations made by the second party, in the statement of claim. It is submitted by the first party that so-far-as the issuance of the charge-sheet and the charges levelled against the employees are concerned, the same are true and correct. However, the management of the first party does not admit that the charge-sheet issued to the employees is illegal, false and vague. It is submitted that the charges are specific, clear and not ambiguous. It is denied by the first party that the standing Orders were suitably amended to victimize the second party. It is admitted that the charge-sheet was confidentially amended regarding one more charge of dis-honesty and integrity. It is denied that it was amended so as to victimise the employees. In fact, the first party management has taken abundant precaution not to disclose the charges to another companion workers in the interest of the second party. It is admitted by the first party that the Enquiry Officer was changed and that no reasons were indicated to the second party. It is not necessary to disclose the reason for the change of the Enquiry Officer. It is denied by the first party that the enquiry was conducted in the hasty manner. It is also denied that Col. J. S. Alawat or any other officer of the Management was duly protected by the Enquiry Officer, and that while narrating the facts, Lt. Col. Alawat made frequent interruptions which were not regarded by the Enquiry Officer. It is also denied that the objections raised by the second party that the Enquiry Officer is not taking signature on every sheet of the proceeding and not taking changes and protecting Lt. Col. J. S. Alawat, beyond reasonable extreme and that the permission sought to re-examine him was also denied. It is denied by the management that the examination was conducted on 14-5-1991 and that the deposition of Shri Bensode was recorded as stated by the second party. It is submitted by the first party that the statement of the employees that the enquiry is false and that the punishment of termination is disproportionate, is absolutely false and therefore, denied by the management. It is submitted by the first party that the enquiry which was conducted against the second party employees, was in accordance with the provisions of the Standing Orders, which are

applicable to them. The Management of the first party has given full and final opportunity to defend the second party employees and that they availed the said opportunity. It is lastly submitted by the first party management that both the employees have admitted their guilt at the very out-set and therefore, no enquiry was required to be held. The management has extended full, fair and final reasonable opportunity in compliance with the principles of natural justice by holding the enquiry, which was perfectly fair and legal and that therefore, there is no reason for this Tribunal to interfere in the matter of punishment awarded by the first party and that the said Reference deserves to be dismissed.

21. The first party has filed the concerned documents and the enquiry papers, on record. After doing through the averments made by the parties and the Schedule to the Reference, my learned predecessor has framed the following issues on 22-9-1995, and I record my findings on them, for the reasons recorded below:—

1. Whether the domestic enquiry held against the second-party workmen Shri P. Umapathy and Shri S. Joshi is fair and proper?
2. Whether the acts of misconduct alleged against the second party workmen vide charge-sheet dated 2-3-1994 are proved, on the basis of the material and the evidence on record, to the satisfaction of the Tribunal?
3. If the reply to Issue No. 2 is in the affirmative, whether the punishment of removal imposed on the second party workmen, is proportionate to the act of the misconduct, proved against them?
4. Whether the second party workmen are entitled to any relief?
5. What Award?

22. Findings:—

- (1) No, (2) No, (3) Does not survive, (4) Yes, (5) As per final Award.

REASONS

23. It is the main contention of the second party workmen that the domestic-enquiry held against the workmen, by the first party, was not fair and proper; whereas, it was the contention of the first party that though it was not necessary to conduct the enquiry, even then, the enquiry was conducted and a fair opportunity was given to the second party to defend and that the said enquiry was conducted in compliance with the principles of natural justice. So as to decide this issue, it is necessary to go into the enquiry-papers, filed on record. It is the first contention of the learned Counsel for the second party that the charge-sheet is vague. He has referred to the charge-sheet dated 2-3-1991, filed at Annexure-A below Ex. U-8, which reads as under:—

"It is reported against you as under :—

On 13th Dec. 1990, at about 16.30 hrs. the following liquor items were sold in Pune Sub-Area Canteen:—

(a) Bill No. 0183—3 Contessa Rum	Rs. 94.00
(b) Bill No. 0194—2 Old Monk Rum	Rs. 59.00.
— 1 Bagpiper Whisky.	Rs. 70.25.
— 1 Macdowell Whisky.	Rs. 86.00.
	<hr/> Rs. 215.25. <hr/>

The aforesaid bills were prepared by you in the name of Sub-SM Suryawanshi. The said Sub-Suryawanshi was neither present when the bills were prepared nor had he authorised you to do such a transaction. Although Assistant Manager Mr. C. L. Sethi was present and available in the Canteen, at that time, he was neither consulted nor his permission obtained by you in this matter, which should in any case, have been done.

As an employee of the Canteen, you are fully conversant with the rules and the regulations regarding sale of liquor.

- Consequent to the above, the following charges are liable to be framed against you :—

(a) Wilful violation of the rules, instructions and procedures regarding sale of liquor.

(b) Gross negligence and dereliction of duty.

You are required to submit your written explanation as to why disciplinary action should not be taken against the Canteen. Your explanation should reach the undersigned before 09th March 1991, failing which, it will be assumed you have nothing to say in your defence."

24. After going through the contents of the said charge-sheet, a letter was issued by the delinquent-employees to the Secretary Managing Committee, to supply the necessary details, but from the record, it reveals that the said information was not supplied to them and it was informed to them by the letter dated 19-3-1991, that their request was rejected and that the enquiry will be held in the head-quarter on 23-3-1991. Thereafter the learned Counsel for the second party has referred to the charge-sheet dated 27-3-1991, which is at Annexure-I, below Ex. U-8. From said charge-sheet, it reveals that the earlier charge-sheet was amended and that the amended charge-sheet reads thus:—

"Further to our charge-sheet, dated 2nd March, 1991, you are hereby informed that the said charge-sheet stands amended to the extent below:—

"The last but one para shall be read as under:—

"Considering the foregoing, the following charges are hereby levelled against you :—

(a) Wilful violation of the rules, instructions and the procedures, regarding the sale of the liquor and,

(b) Gross Negligence, and dereliction of duty,

(c) Act of dis-honesty and lack of integrity."

25. Thereafter, the enquiry was proceeded. But, it is pertinent to note that the Enquiry Officer Col. S. P. Salunke has forwarded a letter dated 20-4-1991, to the delinquent employees, mentioned therein that he will investigate regarding the following charges:—

"(a) Wilful violation of the rules, instructions and the procedures, regarding sale of liquor.

(b) Gross negligence and dereliction of duty."

It becomes very much clear that the Enquiry Officer conducted the enquiry regarding two charges only.

26. Prior to the appointment of the Enquiry Officer, a preliminary enquiry was made by one Col. B. W. Fernandes. He has submitted his report, regarding the preliminary investigation, in which, he has observed that the employees of the R.T.O. Department have been permitted by the Canteen Manager to purchase the grocery items, on previous occasions. The daily expenditure of the liquor stock is not reconciled with the total issues viz. those recorded against the liquor-cards and miscellaneous issues. Un-authorised transactions, concerning the sale of the liquor can, therefore, remain undetected. But, while giving the decision, he has held that (a) the following individuals are to be blamed for the sale of the liquor to the non-entitled personnel:—

(a) Shri S. Joshi,

(b) Shri P. Umapathy,

(c) Shri M. S. Patil.

27. (b) The investigation confirms a nexus between. Shri S. Joshi and Shri P. Umapathy and the incident cannot be viewed as an isolated instance. It is considered necessary to re-concile the total daily expenditure of the liquor stock with the record of the individual issues. Thus, he has submitted his report on 26-12-1990 without giving any firm decision. On the basis of this report of the preliminary investigation, a charge-sheet was issued to the second party workmen. If the charge-sheet issued to the second party workmen is perused carefully, then it is seen that the statement of allegation is not provided. So also, the list of the witnesses is also not given, along-with the charge-sheet. It also becomes very much clear that the charges are vague. The charge speaks about the selling of the liquor, but the name of the persons, to whom liquor was sold, was not mentioned in the charge-sheet. Then, it is not mentioned, in the said charge-sheet under which standing orders, the said charges are framed and under which provisions, it amounts to misconduct. Therefore, it is amply clear that the charge-sheet is vague

28. The record of the enquiry further reveals that the charge-sheet was confidentially amended, after the domestic-enquiry was over. The enquiry was taken on 30-4-1991 and the same was over on 7-5-1991, after the statement of Shri Joshi was recorded and the enquiry was held on the amended charge-sheet and no fresh enquiry was conducted on the basis of the amended charge-sheet.

29. If the enquiry papers are perused, it reveals that the Enquiry Officer has asked certain questions to the witnesses. The first witness Lt. Col. B. Hariasara (retired) was examined in the enquiry, to whom, the following question was asked by the Enquiry Officer:—

“Do you maintain any register to have the record of non-card-holders as well as unauthorised persons to whom the Grossory Stores are issued under your authority and in respect of those, to whom the liquor is issued on the authority of the A/c H.Q. Pune Sub-Area?”

The witness has answered the above question in the negative.

30. The witness was cross-examined by Shri P. Umapathy, and the following questions were asked to the witness to whom, he has answered as follows:—

Question No. 10:—“Did you authorise in writing Sub. Suryawanshi to collect the liquor without maintaining the proper bill and payment on 13th Dec. 1990? And if so, what liquor and under whose orders, Sub. Suryawanshi carried with him from our canteen?”

Answer :—“No written chit, for this purpose was issued by me. However, I verbally instructed you to give certain liquor to Sub. Suryawanshi on loan for a function at 101 TA Bn. No prior permission for having the liquor on loan was sought by me from the Secretary of the Canteen Committee. Further, I do not remember what liquor with quantity, was actually shown by Sub. Suryawanshi on loan on 13th Dec. 1990.”

Question No. 11.—“Did Sub. Suryawanshi inform you that the particulars of the Civilians to whom the liquor on the bills (Bill No. 0183 and No. 0194) was issued on 13th Dec. 1990.”

Answer :—“Sub. Suryawanshi just informed me that the liquor on the said bills was alleged to have been issued to certain individuals from the R.T.O. Department, Pune.”

Question No. 12:—“Did you check or find whether Sub. Dalip Singh, Security Jao of the Canteen, obtained any statement in writing from the Civil. alleged to have carried the liquor issued on the Bill (No. 0183 and 0194)? Or did you check up from him or other staff from the Canteen who they (Civ) were?”

Answer :—No.

Question No. 13 :—“Are you authorised to issue the liquor to Civilians, who are not holding the canteen cards?”

Answer:—“No. However, at times, I do issue the liquor to the Civs. though not holding the canteen

cards only when I get such instructions either verbally or in writing from my superiors from our H.Q. Pune Sub-Area.”

31. From the above questions and the answers, it becomes very much clear that liquor was used to be sold to the civilians also but on obtaining the permission from the concerned authority.

32. It was the main contention in the charge-sheet that the bill was prepared by the delinquent employee, in the name of Sub-Suryawanshi. The said Sub. Suryawanshi was neither present when the bills were prepared nor he had authorised the delinquent employees to do such transaction. Then it was also contended that the bills were prepared by the delinquent employees, in the name of Sub. Suryawanshi. In this regard, witness Shri C. L. Sethi, Assistant Manager of Stores Section of Pune Sub-Area Canteen was examined. He has stated in his deposition that:—

“After about 20-25 months, Our Canteen Managing Committee Secretary Lt. Col. J. S. Ahlawat came to me and told to me to enquiry how liquor found in the possession of an un-authorized civilian who alleged to have bought it from our Canteen. On this, I approached Shri P. Umapathy and Shri S. Joshi, both the employees in the liquor section and asked them. Till Shri P. Umapathy informed me that Shri Joshi told him to issue the liquor to the said Civilian, since the said Sub. Suryawanshi asked him to do so. During the course of my investigation, Shri S. Joshi spoke to Sub. Suryawanshi who was in Unit Line (101 TN Bn) on phone. I do not know what was the talk on phone between Shri S. Joshi and Sub. Suryawanshi. Since, I left the place to inform Lt. Col. to give the report of my investigation to the Lt. Col. J. S. Ahlawat.

33. The next witness examined is Shri Maruti Patil. He has stated that :—

“On 13th Dec. 1990, one of the R.T.O. Staff from the R.T.O. Office, Alandi Road, Pune, with his friend, approached me for the bottle of Rum. I therefore, went to Shri Joshi, Sales Assistant, Canteen, at about 1600 hrs. on the same day and told him that I had already approached to Shri Suryawanshi just 2-3 days back and obtained his verbal permission to draw the said liquor from the canteen. Shri Joshi, on this, asked me to pay Rs. 100 towards the costs of the Rum Bottle. I accordingly, paid the amount to him and for any work in the accounts section.

After about 10-15 minutes, the same Civilian came to me and told that one Security, at the post, had confiscated the bottle of confessa rum he collected from the Canteen. On this, I told him that nothing could be done by me in this regard. Therefore, he left the Accounts Section.”

34. When a question was asked to said Shri Patil that "How can then Shri Bansode approached you only on 13th Dec. 1990, for the Rum?" his answer was "I went to R.T.O. Office on 01 Dec. 1990 for obtaining the Driving Licence. There, Shri Bansode met me. On realising that I was working in the Sub-Area, Canteen, he requested me for three Rum Bottles from the Canteen through me. I therefore told him to come and meet me in our Canteen on 13th Dec., 1990 noon." Shri Patil has further stated that "However, since I had requested Sub-Suryawanshi, on this and who promised me to meet my requirement, I assured Shri Bansode to issue three bottles of Rum on 13th Dec., 1996 from the Canteen." It is to be noted that this evidence makes it amply clear that the liquor bottles were issued with the consent of Shri Suryawanshi.

35. The statement of Shri M. G. Bausode was recorded in the enquiry. In the enquiry, the question was asked by the Enquiry Officer to said Shri Bansode, as under:--

"It is reported that you had come to HQ, PSA Canteen and through some canteen employees procured some liquor from the Canteen on the payment on 13th Dec., 1990 noon. Is it correct?"

Said Shri Bansode, gave his answer to the above question, as under:--

"Since I do not consume any liquor, the question of my coming to the Canteen and further procuring the liquor or even any items of stores from the Canteen does not arise at-all."

A further question was asked by the Enquiry Officer to said Shri Bansode, as under:--

"Did you come in contact with any of the staff working in the canteen on any occasion?"

Shri Bansode, replied the said question as under: "No, I even do not know any one of them either by face or by name."

Thus, this denial, on the part of said Shri Bansode, who has been examined as a witness, by the first party and to whom, it was said that the liquor was sold by the delinquent employee, it becomes very much clear that the charges levelled against the delinquent employees were false.

36. The Enquiry Officer has given his findings as recorded in Annexure-O, page No. 179. He has also recorded certain discrepancies, which are as under:--

"(a) Lt. Col. B. Harisara (Retired) Canteen Manager has been issuing the liquor (Rum old mark) to messers Mohan Rocky (though the party is neither authorised nor holding the canteen card), under the pretext that said liquor was 'defective', at the regular intervals,

(b) No record of board proceedings are held with the canteen Manager, to confirm that the liquor sold to Mohan Rocky was assessed as 'defective liquor.'

(c) Further, Lt. Col. Alliawat, Canteen Secretary is not aware of the fact that the liquor (old mark rum) was sold to Messers Mohan Rocky by the Canteen Manager (Ref. paras Nos. 14 to 15 of the statement of the witness No. 2).

(d) No cops are laid-down regarding the duties to be performed and the responsibility of the staff employed in the Canteen. Even laid-down existing Standing Orders are not updated as confirmed by the Canteen Secretary (from paras Nos. 22 to 23 of the Statement of the witness No. 2).

(e) Sub. Dilip Singh, the Secretary to the Administration, DSc in the Canteen not only fail to approach the party from whom he confiscated the liquor (seven Bot) on 13th Dec., 1990 and even did not care to note/record the Regn. No. of the two wheeler in which the said party fled the spot of the incidence and yet no disciplinary action has been initiated by the Canteen Secretary/Managing Committee, against the defaulting Sec.

(f) Lt. Col. B. Harisara (Retd) Canteen Manager, on his own, has been permitting certain individuals, though not entitled (since not holding the canteen cards) to draw Groceries and even the liquor from the canteen. Further, no records are maintained on the liquor issued/sold to the non-entitled persons. (Ref para No. 18 of the Statement of the witness No. 1).

(g) Lt. Col. B. Harisara (Retd), Canteen Manager, without seeking prior approval of the Canteen Secretary, draw the liquor on loan from the Canteen, through Sub. Suryawanshi, on 13th Dec. 1990, evening. No records of such (Loan issues are kept/maintained). (Ref para 32 of the statement of the witness No. 1).

(h) Register of Daily expenditure of the liquor stock of the Canteen does not tally with the register recording the day to day issues of the liquor made to individuals. (Ref. para No. 16 of the Statement of the witness No. 1)."

37. After going through these findings recorded by the Enquiry Officer, one could not come to the conclusion that the charges levelled against the delinquent employees are said to be proved, beyond doubt. The said report, does not bear the date, on which the said report was submitted.

38. It is pertinent to note that the earlier charge-sheet was further amended by the order dated 5-5-91. A copy of the said charge-sheet is at Annexure produced below Ex. U-8. It is evident from the record

that the when the said charge-sheet was amended, the enquiry was already completed. Thus, it is amply clear that the enquiry, which was conducted and completed, procedurally as well as in substance, was not level and proper.

39. The learned Counsel Shri S. B. Malegaonkar, for the second party workmen has vehemently argued that the charge-sheet issued to the delinquent employees was vague, and the charge were not explained in detailed and that the Report of the Enquiry Officer was not supplied to the delinquent employee. Therefore, the enquiry was vitiated. For this purpose, Shri Malegaonkar has placed his reliance on the judgment of the Supreme Court of India, in *Transport Commissioner, Madras. Petitioner Vs. A. R. K. Moorthy. Respondent.* (reported in 1995—I.C.L.R. Page 377), in which, it is held as under :—

“A reading of the charges would show that they are not specific and clear. They do not point-out clearly the precise charge against the respondent, which he was expected to meet. One can understand the charges being accompanied by a statement of particulars of the aforesaid charges, but that was not done. The charges are general in nature to the effect that the respondent alongwith eight other official indulged in mis-appropriation by falsification of the accounts. What part did the respondent play which account did he falsify or help falsify, which amount did he individually or together with other named persons, mis-appropriated, are not particularised. The charge is a general one. It is significant to notice that the respondent has been objecting being to charges, on the ground of vagueness from the earliest stage and yet, he was not furnished with the particulars.

40. Shri Malegaonkar, Advocate has further relied on the Judgment of High Court of Gujarat, in *J. K. Raval Vs. Dena Bank, Palanpur and Ors.* (reported in 1994-II C.L.R. page 922), in which, it has been held that under the relevant Bank Rules, there is no power to re-open a concluded enquiry and in the absence of that, the second enquiry was in any case, impermissible and bad in law. It was further held therein that the second charge-sheet, the enquiry based thereon the report arrived thereafter and the punishment inflicted are all bad in law.

41. He has further relied on the decision of Bombay High Court, reported in *Kasinath Vaman Vandere Petitioner Vs. State of Maharashtra and Ors.* (1995-I.C.L.R. Page 1047) in which it was held as under:—

“Non-supply of the copy of the report of the Enquiry Officer, Petitioner, a Clerk in the Court in Dhule District was dismissed for misconduct by the order dated 30-3-1992. After enquiry, Enquiry Officer had submitted a report to District Judge on 27-3-92. Copy of that report was not given to the petitioner before passing the impugned—order dated 30-3-1992. Hence that there is a clear breach of the principles of natural justice as admittedly, the copy of the En-

quiry Report was not furnished to the Petitioner, before the impugned action and the non-supply has caused serious prejudice to the petitioner.”

42. Thus on going through the evidence on record, and position of law, I am constrained to hold that the enquiry held by the management of the first party, against the second party workmen, was not fair and legal and proper. Hence, I answer the Issue No. 1 in the negative.

43. Both the parties have relied on the documents of the enquiry, filed before the Court. So also, the first party has examined two witnesses to prove the charges. The first party has examined one S. Mohan, who has stated that the preliminary enquiry was conducted by Col. Fernandes and that it was a preliminary investigation held by the office for themselves. The investigation made during the period from 19-12-1990 to 26-12-1990, was just an investigation and the employees were not allowed to cross-examine or participate in the investigation and that his status in the said investigation was only that of as a witness. Therefore, the evidence of Shri S. Mohan is not, in any way helpful to the party No. 1.

44. The next witness, who was examined by the first party was Col. Subash Ambepvm. He has stated that the enquiry was held by Col. Salunkhe and that what ever that has been deposed to by Col. Subhash Ambepvm was on the basis of the record. When the enquiry was conducted by Col. Salunkhe, witness Col. Subhash Ambepvm was not present. He has clearly stated in his deposition that whatever he is doing to depose in the Court, is on the basis of the documents as supplied by the management of the first party. It may be noted that it was the main contention of the delinquent employees that the Investigating Officer did not obtain the signature on other papers. When this question was asked to Col. Subhash Ambepvm, he has replied that it was not necessary. Therefore, if the deposition of the second witness is perused, then it becomes clear that the said witness is not aware about the facts of the case. All that he has deposed was only on the basis of the record made available to him, for the perusal. Therefore, on the basis of this evidence, it could not be said that the first party proved the allegation of the misconduct, in the Court. On the contrary, P. Umapathy was examined on behalf of the delinquent employees the second party. He has categorically stated all the facts of the case, in his deposition. He has further deposed that the Enquiry Officer has recorded the proceedings of the enquiry, in his hand. However, the Enquiry Officer did not obtain his signature, on all the pages and the proceedings of the enquiry. The enquiry was closed on 25-7-1991. Six witnesses were examined in the enquiry, by the Enquiry Officer. He has further stated that the entire proceedings of the Enquiry Officer were re-written by the Enquiry Officer, as contended by him, in the statement of claim. That he has not made and complaint, to Commandar, Pune Sub-Area, in this respect. That he came to know after the receipt of the copy of the proceedings, in the Labour Commissioner Office. Those proceedings were re-written. That Ex. C-8 to the enquiry proceedings at page No. 114 bears his signature. The contents of the same are

not correct. The signature of Shri Joshi and his signature, were taken under coercion. It may be noted that though the said witness was cross-examined at length, nothing could be brought on record which could help the first party to falsify the contention of the second party workmen.

45. When it was the contention of the first party that the delinquent employees have committed certain misconducts, then, it was obligatory, on the part of the first party to prove this allegation and the misconduct, in the Court. But, from the record, it reveals that the chargesheet which was given to the delinquent employees, the charges, levelled therein, were vague. The said charge-sheet was amended on two times and that the enquiry was not conducted properly and that the charges levelled in the said charge-sheet are, as stated above, vague and that no statement of allegation has been clearly mentioned in the charge-sheet. Therefore, it is obviously clear that the management of the first party has failed to prove the charges, in the Court. Hence, I answer the issue No. 2 in the negative.

46. The Issue No. 3 was replied by me as does not survive, because the said issue was to be answered if the Issue No. 2 was in the affirmative. It was the contention of the party No. 2 delinquent employees that the punishment of dismissal awarded to them was shockingly dis-proportionate. It is evident from the record that the services of the employees were terminated, on the basis of the enquiry report and submitted by the Enquiry Officer. In the termination order dated 23-8-1991, it is mentioned that "it has been established beyond doubt that as a senior sale-Assistant, you have connived with Shri P. Umapathy and wilfully violated the rules, instructions and the procedure, regarding the sale of the liquor. Under the provisions of the Canteen rules, your services are hereby terminated with effect from 21-3-1991." When the termination orders, regarding Shri P. Umapathy and Shri S. Joshi, the copies whereof which are brought on record below Ex. C-8 on page Nos. 55 and 56, respectively, are perused, it reveals that it is not mentioned in the said termination order, as to under which provisions of the Service Rules of the delinquent concerned employees, are awarded punishment and their services are terminated. It is also not mentioned in the said order of termination that the charges levelled against them are proved. Therefore, under such circumstances, the termination of the delinquent employees, being illegal and void ab-initio, the order of termination deserves to be set-aside and therefore, the punishment of removal imposed on the second party needs to be set-aside. Hence, there is no necessity to decide as to whether the said punishment is proportionate or disproportionate to the acts of the misconduct, especially when it is clear that the misconduct is not at all proved. Hence, in my opinion the said issue does not survive. Therefore, I answer the said issue, accordingly.

47. When the issues, mentioned above, are answered accordingly, in favour of the delinquent employees, then obviously, the delinquent employees are entitled to get the relief, as prayed for. But before proceeding to pass the Award, I think it necessary to discuss the citation on the said issue. It has been argued by the

learned Counsel at length, regarding the relief to be granted to the delinquents. It is argued by the learned Counsel Shri Kulkarni, for the party No. 1 that the delinquent employees were given, full and fair opportunity to participate in the enquiry and to defend their case and that the enquiry was conducted, according to the principles of natural justice and therefore, the services of the delinquent employees were terminated, on taking into consideration the gravity and the seriousness of the misconduct committed by them. The management has lost confidence in the delinquent employees, and that therefore, their continuation in the services of the military organisation is patently undesirable in the interests of the national integrity and that the action of the management in terminating their services is perfectly legal and valid and proper. On these grounds, Shri Kulkarni has submitted that the delinquent employees are not entitled to the relief claimed and prayed for. Shri Kulkarni has vehemently argued and requested the Tribunal that the Reference should be rejected and that no relief should be granted to the delinquent-employees. In support of his arguments, Shri Kulkarni has relied on a number of authorities as follows:—

Parties	Reported	Court	Page Nos.
1. Instrumentation Limited Vs. Presiding Officer, Labour Court and another	LLJ-II 1988	Patna H.C.	222
2. Gograj (dead) L.rs etc. Vs.	FLR (27) 1973	Supreme Court	248
3. Raja Himanshu Dharsing Vs. Additional Registrar, Coop. Societies, U.P.	AIR 1962	Allahabad Court.	439
4. Juggilal Kamla Pat Vs. Ram Janki Gupta and another.	AIR 1962	Allahabad H. Court	407
5. Haridayana and Vs. G.P. Stores, Allahabad	CIR-I 1996	Allahabad H. Court	1009

48. I have gone through the said authorities, as cited by Shri Kulkarni, the learned Counsel for the first party. But, in my opinion, the said authorities are not relevant, in the present case and that the ratio there-in, are not applicable to the facts and the circumstances of the case at hand.

49. As against the arguments of Shri Kulkarni, Shri Malegaonkar, Advocate for the delinquent employees has argued that services of the delinquent employees were terminated illegally, without complying with the necessary provisions of the Standing Orders. Even in the charge-sheet issued to the delinquent employees, it was not mentioned as to under which provisions the said charges were levelled against them. He has further argued that while imposing the punishment of dismissal the first party has not taken care to go through the provisions of the Standing Orders and to see as to whether the

Standing Orders provide for the punishment of dismissal or not, especially taken into consideration the misconduct alleged by the first party against the delinquent. Shri Malegaonkar has referred to the copy of the Standing Orders of the management of the first party, filed on record and after referring the said Standing Orders, he has argued that the punishment of dismissal is the last punishment which could be granted only if the serious misconduct is proved. In the present case, even the charges, which were levelled against the delinquent employees were not so serious. Therefore, there was no reason for the management of the first party to go through the enquiry and issue the order of the termination. He has further argued that the Enquiry Officer has nowhere mentioned, in the Enquiry Report that what charges are proved and what charges are not proved. Therefore, there is no reason to believe the findings, in the enquiry. He has also argued that the enquiry was completed by the first party, with undue haste and that after completion of the enquiry, the copy of the Enquiry Officer's report was not given to the second party. It may be noted that even on asking for the said report, by the second party, a copy of the enquiry report, was not supplied to the second party workmen. This being the act, on the part of the first party, against the provisions of law and against the principles of natural justice, the punishment of termination is ex-facie illegal.

50. While arguing regarding the powers of the Industrial Tribunal, Shri Malegaonkar has argued that Sec. 11-A of the Industrial Disputes Act, 1947, gives the powers to the Labour Court and the Tribunal, for giving the appropriate reliefs, in case of discharge or dismissal of the workmen. Where an industrial dispute relating to the discharge of the workmen, has been referred for adjudication to the Labour Court, Tribunal, or the National Tribunal, and in the course of and on adjudication and hearing of the Reference proceeding, the Labour Court, the Tribunal or the National Tribunal is satisfied that the order of discharge or dismissal was not justified, then it can by itself, either set-aside the order of discharge or dismissal and direct the reinstatement of the concerned workmen on such terms and conditions, as it deems just and proper or give such other reliefs to the workmen, including award of any lesser punishment, in lieu of discharge or dismissal under the circumstances of the case, as the case may required.

51. Shri Malegaonkar has further argued that in the present case, the charges levelled against the second party concerned delinquent employees, are not proved, and therefore, obviously, the delinquent employees are entitled to get the relief of reinstatement, with full back-wages. The first party is unnecessarily harning on the technicalities. In fact, to prove the gainful employment of the second party, the burden in that regard lies on the employer i.e. the first party, when the dismissal is held wrongful then the normal rule will be the reinstatement with full back-wages and hence, it is necessary to grant the reinstatement with full back wages to the delinquent employees. For this purpose, Shri Malegaon-

kar, Learned Advocate for the second party has placed his reliance on the following rulings :—

- (1) Sunder Dass Vs. Management of M/s. Asthetic—Exports Pvt. Ltd., (resorted in 1984-L.I.C.) Page 209 (Delhi High Court).

In which it has been laid-down, as under :—

"An illegal order of termination is non-est—A void dismissal is just void and does not exist. It is as if the order had never been made. The Award of full back-wages must, therefore, follow once the order of termination is declared to be void. This is the normal rule....."

"The burden of proving that the normal rule should be departed from because the case is an exceptional one, lies on the management. Special circumstances must be pleaded specifically by the management and should be proved by producing the necessary material in this behalf."

"It is not necessary for the workman to make-out a case for award of back-wages by producing sufficient material."

- (2) Balakrishna Tindal Vs. M/s. Indabrador Limited and another, reported in (1985— I.L.J. Page 23 (Bombay H. C.).

In which it has been held as under :—

"Once it is held that the punishment was disproportionate to the misconduct proved, it should be inferred that the workman was victimized but in certain cases, depending upon the facts and the circumstances, the court may consider the other issues and upset the Award of the Labour Court without going into this aspect of victimization. Punishment of termination, instead of dismissal is also harsh. If the order of termination is bad in law, the workmen is entitled to full back-wages. But, if the employer makes an application to adduce the evidence, even at the trial, regarding the gainful employment of the workmen, when he was not in the service of the management, the court must give reasonable opportunity to the employer to prove this case."

- (3) Roselyn Manikya Vs. Management of Hindustan Aeronautics Ltd. (reported in 1994—II C.L.R. Page 371).

In which it has been held as under :—

"Obligation of the Enquiry Officer to pass speaking order. The order of the Enquiry Officer, not containing the reasons for rejecting the representation made by the employees, in reply to show cause notice explaining her punishment order of punishment would be held that it is well settled that the objectivity and the fairness in the matters where valuable rights of the citi-

citizens are involved is the only safe-guard against the arbitrary exercise of power. Disclosure of reason by the competent authority would not only show that it had applied its mind fairly and objectively, but also enables any high Authority including this Court to examine the correctness of the position as regards proposed imposition, rendered invalid."

"Inasmuch as the Competent Authority has failed in its obligation of passing the speaking order, giving reasons and disclosing application of mind on its part, the order of punishment is rendered in-valid."

(4) Executive Engineer, PWD and Anr.

..Petitioner.

Vs.

The Judge, Labour Court, Jaipur and Another.

...Respondents.

(Reported in 1995—II C.L.R. Page 393), in which it has been reported, as under :—

"It is burden of the employer to plead and prove that workman was gainfully employed after termination of his service. When employer had not raised plea before Labour Court, that workman was gainfully employed after termination of his services, it is not open to him to raise that plea before High Court."

52. After going through the citations, relied upon by Shri Malegaonkar and the ratio laid-down therein, I agree with the arguments of the learned Counsel Shri Malegaonkar, for the Second Party that the first party has not proved in this Court that the concerned employees were gainfully employed. It may be noted that in the present case, even the first party management has not alleged that the second party workmen were in the gainful employment. It was obligatory duty of the first party to prove that the delinquent employees were gainfully employed elsewhere. No doubt, it is true that though the delinquent employee Umapathi stepped into the witness box, but he has not stated that he has tried to get the employment else-where and that he was not gainfully employed. This, by itself, would not make the delinquent dis-entitled to get the said relief backwages. It was the duty of the first party management to prove that the second party workmen were gainfully employed, but as the same has not been proved by the first party, obviously, the workmen the second party would be entitled to get the relief of full back wages also.

53. After answering the above mentioned issues, accordingly, now I will proceed to discuss as to what relief the delinquent employees are entitled to. It is obviously clear from the present proceeding that the enquiry regarding the delinquent employees was conducted in a very inventive style. Though the charges were not proved against the delinquent employees, it was held that the charges are proved and the delinquent employees were awarded the punishment of dismissal. When the enquiry was held to be illegal and not fair and proper, by this Tribunal,

then, obviously, the punishment awarded by the first party needs to be set-aside. This Reference is made by Government of India, Ministry of Labour, Delhi, to decide as to whether the action of the management of Pune Sub-Area, Canteen, in terminating the services of Shri P. Umapathy and Shri S. Joshi, w.e.f. March, 1991, was lawful, just and proper? If not, what is the relief to which the workmen are entitled. This, the said schedule consists two parts, as above. For the reasons stated above, I will have to answer the said first party of the issue, in the negative. Thus, after answering the said first party of the schedule, in the negative then obviously, the second party of the schedule, which needs to be considered, pertains to what is the relief to which the workmen are entitled to.

54. Taking into consideration, the evidence on record and the arguments advanced by the learned Counsels for both the sides and in the light of the ratio laid-down by both the learned Counsels, I am of the opinion the second party workmen, namely (1) Shri P. Umapathy and (2) S. Joshi, are entitled to get the relief of reinstatement with full back wages from 21-3-1991, i.e. from the date, when their services are terminated.

55. Hence, I proceed to pass the following Award :—

(i) The Reference is hereby allowed.

(ii) The first Party, the Commander, Pune—Sub-Area, Canteen Managing Committee, Pune Sub. Area/Canteen, Pune Sub. Area, Headquarters, Pune -411 001, is hereby directed to reinstate Shri P. Umapathy and Shri S. Joshi, with continuity of service with effect from 21-3-1991 and that the first party is further directed to pay the back—wages from the date of the termination, till the date of reinstatement.

(iii) The first party shall implement the above Award, within the period of one month from the date when it becomes enforceable.

(iv) Award accordingly.

Dated : The 11th September, 1996.

S. S. HIRURKAR, Industrial Tribunal.

नई दिल्ली, 4 मार्च, 1997

कांआ०.913:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार सेंट्रल रेलवे, झांसी के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधीकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-3-97 को प्राप्त हुआ था।

[संख्या एल-41011/56/90-आई आर (डीयू) बी-II]

पी०जे० मारिकल, डैस्क अधिकारी

New Delhi, the 4th March, 1997

S.O. 913.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway, Jhansi and their workman, which was received by the Central Government on 3-3-97.

[No. L-41011/56/90-IR (DU) (B-I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 134 of 1991

In the matter of dispute between :

President, Rashtriya Chaturtha Shreni Rail Mazdoor
Congress, 2/236, Namneir, Agra.

AND

Divisional Railway Manager (P),
Central Railway,
Jhansi.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-41011/56/90-I.R. (DU) dated 12-9-91, has referred the following dispute for adjudication to this Tribunal—

Whether the DRM(P) and Sr. DEN(M) Central Railway, Jhansi are justified in not regularising the services of S/Shri Baboolal and Ramesh under AEN Agra Cantt. ? If not, what relief the workmen concerned are entitled to ?

2. The case of the concerned workman Baboolal and Ramesh is that their colleagues Mukesh, Kamal, Gauri Shanker, Arjun, Ratan Singh including the concerned workmen were employees of the opposite party Central Railway. Their services were discontinued by the opposite party on the ground that they had obtained service by submitting fake service card. The matter was taken before ALC where on the basis of conciliation on 3-12-87, all the above named persons were taken in service. They were later on regularised as well but the concerned workmen were not regularised in spite of the fact that they had rendered service for long petty time. On the basis of parity too they were entitled for regularisation.

3. Opposite party has filed reply in which only legal points have been raised. Facts alleged in the claim statement has not been denied.

4. In support of their case the concerned workman has filed their affidavit. The opposite party failed to cross-examine them. No evidence in rebuttal was given. Thus hard fact remains that there is no denial of pleadings by the opposite party and that there is no rebuttal of evidence hence I have no hesitation in accepting the version of the concerned workmen.

5. It is accordingly held that the concerned workmen are entitled for regularisation as they had rendered service for more than 240 days and their colleagues placed in similar circumstances were also regularised. Hence my award is that the concerned workmen should also be regularised within six months from the date of publication of award.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 4 मार्च, 1997

कां०ग्रा० 914:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्दन रेलवे हॉस्पिटल, लखनऊ के प्रबन्धन में संबद्ध

नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निषिद्ध औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-3-97 को प्राप्त हुआ था।

[संख्या एल-41012/5/95-आई आर (बी-1)]

पी०जे० माईकल, डेस्क अधिकारी

New Delhi, the 4th March, 1997

S.O. 914.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway Hospital, Lucknow and their workman, which was received by the Central Government on 3-3-97.

[No. L-41012/5/95-I.R. (B.I.)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, DEOKI PALACE ROAD PANDU
NAGAR, KANPUR

Industrial Dispute No. 75 of 1996

In the matter of dispute between :

Medical Superintendent,
Northern Railway Hospital,
Charbagh, Lucknow.

AND

Zonal Vice President,
U.R.K. Union, 39-II J,
Multi Storeyed Railway Colony,
Charbagh, Lucknow.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its notification No. L-41011/5/95-I.R. (B) dated 2-8-96 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the Medical Supdt., Northern Railway Hospital, Lucknow for not granting washing allowance to Safaiwalas working under CHI/AMV, Lucknow is legal and justified ? If not, they are entitled to what benefits ?

2. It is unnecessary to give the detail of the case as in spite of sufficient service the concerned workman has not filed the claim statement. Hence the reference is answered against the concerned workman for want of prosecution and proof and he is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 4 मार्च, 1997

कां०ग्रा० 915:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल रेलवे, झांसी के प्रबन्धन में संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निषिद्ध औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-3-97 को प्राप्त हुआ था।

[संख्या एल-41012/9/93-आई आर (डी यू) बी-1]

पी०जे० माईकल, डेस्क अधिकारी

New Delhi, the 4th March, 1997

S.O. 915.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway, Jhansi and their workman, which was received by the Central Government on 3-3-97.

[No. L-41012/9/93-IR(DU)B.I]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 3 of 1994

In the matter of dispute :

BETWEEN

Surendra Singh,
President,

Rashtriya Chaturtha Shreni Rail Mazdoor Congress
(INTUC), 4, Hirapura, Nagra, Jhansi.

AND

Divisional Railway Manager,
Central Railway,
Jhansi.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-41012/9/93-IR(DU) dated 20-1-94 has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of DRM, Central Sri Siyaram w.e.f. 24-12-85 is justified? If not, what relief he is entitled to?

2. The case of concerned workman Siya Ram is that he joined the service of the opposite party, Central Railway on 6-6-83, under DRM, Jhansi. He had worked from 22-8-83 to 23-12-85 under P.W.I Juhj of the opposite party Central Railway and thus had acquired temporary status. During the course of employment he sustained injuries on 18-2-85. After recovery he was medically examined and was found unfit hence was recommended for light job. The opposite party did not provide him any job at all since then which amounts to termination.

3. The opposite party has filed reply in which it has been alleged that concerned workman after medical recommendation was asked to join Bhimsen as Watchman on 21-12-85 but he failed to join there.

4. In the rejoinder the above mentioned facts were denied.

5. In support of this case the concerned workman Siyaram has examined himself and has stated that he went to office on 19-12-85. He was sent to Bhimsen. He did the duty from 20-12-85 to 23-12-85. With effect from 24-12-85 he was removed and no notice pay and retrenchment compensation was given. In his cross-examination he has denied the suggestion that he himself had stopped coming to railway station Bhimsen.

6. Krishna Narain, PW1 (MW.1) has stated that after the concerned workman was advised for light work he was asked to join at Bhimsen but the concerned workman did not join there. In his cross-examination he has stated that the concerned workman did not come at all for seeking the light work hence no orders were passed. This evidence is contrary to his previous statement in which he had stated that the concerned workman was provided light work but he did

not join. Further as the management has also filed no relevant records like absence from duty etc. to show that the concerned workman did not come to join duty and left the job of his own. Thus on the one hand there is consistent evidence of the concerned workman. On the other hand there is conflicting evidence of the opposite party and the absence of relevant papers as well. In between the two I find the evidence of the concerned workman of better quality, hence I accept the same. Accordingly, I believe the evidence of the concerned workman and hold that concerned workman was deprived of the job after he had joined at Bhimsen which amounts to retrenchment. Admittedly no retrenchment compensation and notice pay was given hence this termination is bad being in breach of section 25F of I.D. Act.

7. Accordingly my award is that the termination services of the concerned workman is bad and he is entitled for reinstatement with back wages.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 4 मार्च, 1947

का आ 916 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नांदेन रेलवे इलाहाबाद के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-3-97 को प्राप्त हुआ था।

[संख्या एल-012/24/90-आई.आर.डी.यू. (बी.-1)]

पी जे माईकल, डेस्क अधिकारी

New Delhi, the 4th March, 1997

S.O. 916.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Allahabad and their workman, which was received by the Central Government on 3-3-97.

[No. L-41012/24/90-IR.DU(B.I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, DEOKI PALACE ROAD,
PANDU NAGAR, KANPUR

Industrial Dispute No. 216 of 1990

In the matter of dispute between :

Sahaik Sanket Avam Door Sanchar

Abhiyanta, Northern Railway,

Allahabad.

AND

D. N. Tiwari,

Divisional Vice President,

Northern Railway Karamchari Union,

2, Naveen Marker Prade.

Kanpur.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its notification No. L-41012/24/90 dated 19-10-90 has referred the following dispute for adjudication to this Tribunal :—

Whether the Asstt. Signal and Telecom Engineer, Northern Railways, Allahabad is justified in terminating the services of S/Shri Shiv Kumar, Khalasi and Shri Riyasat Ali, Casual Khalasi w.e.f. 11-5-88 ? If not, what relief the concerned workman are entitled to ?

2. In this reference there are two workmen viz. Sheo Kumar and Riyasat Ali. Sheo Kumar died during the pendency of reference hence his widow Smt. Bhagwati has claimed only arrears of wages.

3. The case of deceased Sheo Kumar was that he had worked as casual khalasi from 11-4-78 to 11-5-88 for 1505 days in broken period under Signal Inspector (D) of the opposite party Northern Railway, Etawah. Thereafter his services were terminated. The case of Riyasat Ali is that he had worked from 6-4-75 to 11-5-88 for 1249 days in broken period. Thereafter his services were terminated. Thus both workmen had acquired temporary status. Their termination is bad in law because of breach of Sections 25F, G and H I.D. Act.

4. The opposite party has filed reply in which it was alleged that Sheo Kumar had worked from 25-3-81 against work charge and did not complete 120 days. In all he had worked for 553 days. Riyasat Ali had worked from 24-12-80 to 27-2-88 for 630 days. Still both of them had not acquired temporary status. In fact their services have not been terminated their name still exists in casual labour register.

5. In the rejoinder nothing new has been said.

6. Riyasat Ali, WW(1) has examined himself besides W-1 to W-9 paper have been filed. The opposite Railway did not adduce any evidence in spite of sufficient opportunity having been afforded to them.

7. Riyasat Ali, WW(1) has proved his case as well as that of deceased Shiv Kumar. Besides exhibit W-8 the service record of Sheo Kumar and exhibit W-9 service record of Riyasat Ali corroborates the version of Riyasat Ali. There is no evidence in rebuttal. Hence I have no hesitation to accept the version of concerned workmen. Accordingly my finding is that the concerned workmen had acquired temporary status and there has been breach of Section 25 I.D. Act in effecting their retrenchment which is bad in law. Hence my award is that Riyasat Ali will be entitled for reinstatement with back wages @ at which he was drawing wages for the last time. The widow of deceased Sheo Kumar will be entitled for back wages from the date of retrenchment till the date of death @ at which he was drawing his wages at the time of retrenchment.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 4 मार्च, 1997

का०आ०११७ :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार बैंक ऑफ़ कराड, मुम्बई के प्रबन्धतंत्र के संवद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं० 2, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-3-97 को प्राप्त हुआ था।

[संख्या एल-12012/108/95-आई.आर (बी. I.)]

पी०जे० माईकल, डेस्क अधिकारी

New Delhi, the 4th March, 1997

S.O. 917.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Karad, Mumbai and their workman, which was received by the Central Government on the 3-3-1997.

[No. L-12012/108/95-IR (B.I.)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2. MUMBAI

PRESENT

SHRI S. B. PANSE

PRESIDING OFFICER

Reference No. CGIT-2/45 of 1996

EMPLOYERS IN RELATION TO THE MANAGEMENT OF BANK OF KARAD

AND

THEIR WORKMEN

APPEARANCE :

FOR THE MANAGEMENT : Mr. L. M. Devare
Representative

FOR THE WORKMEN : No Appearance.

Mumbai, dated the 11th February, 1997

AWARD

The Government of India, Ministry of Labour by its Order No. L-12012/108/95-IR (B.I.), dated 1-10-96 had referred to the following Industrial Dispute for adjudication.

"Whether the action of the Bank of Karad now taken over by Bank of India in terminating the services of the workman Shri A. G. Shirshat is justified ? If not, what relief should be granted ?"

2. After the receipt of the reference a notice was issued to both the parties. The liquidator filed his statement at Exhibit-2. It is pleaded that the worker was dismissed from Bank of Karad w.e.f. 17-12-85 after he was found guilty of various charges of misconduct committed by him which were proved through the process of domestic inquiry. Thereafter the worker Shirshat sought intervention of the Labour Commissioner. Thus the matter was referred to the Arbitration of Labour Court, Thane. Later on the Presiding Officer of the Labour Court, Thane came to the conclusion that the reference which was sent to him was not maintainable and rejected. Thereafter the Bank of Karad was taken over by the Bank of India. The Liquidator was appointed in the matter. It is averred that looking to the facts of the case the worker has no case and his claim is not maintainable.

3. The union was served with a notice but it did not respond. Thereafter a notice was sent to the worker but it came back unclaimed. Under such circumstances it appears that the worker has no more interest in the matter and does not want to contest the same. I decide the matter ex parte and pass the following order :

ORDER

The action of the Bank of Karad now taken over by Bank of India in terminating the service of the workmen Shri A. G. Shirshat is justified.

S. B. PANSE, Presiding Officer

नई दिल्ली, 4 मार्च, 1997

कांआ० 918.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया, कानपुर के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-3-97 को प्राप्त हुआ था।

[संख्या एल-12012/140/94-आई.आर. (बी-1)]

पी०जे० माईकल, डेस्क अधिकारी

New Delhi, the 4th March, 1997

S.O. 918.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India Kanpur and their workman, which was received by the Central Government on 3-3-1997.

[No. L-12012/140/94-IR (B-1)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT PANDU NAGAR, KANPUR

Industrial Dispute No. 101 of 1995

In the matter of dispute :

BETWEEN

Smt. Ram Saheli
C/o N. K. Paliwal
Dy. General Secretary,
State Bank of India Staff Association
Mall Road, Kanpur.

AND

Assistant General Manager
State Bank of India
Region-II
Mall Road, Kanpur.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-12012/140/94-IR (B-1) dated 17-8-91 has referred the following dispute for adjudication to this Tribunal—

Kya Prabandhtantra Assistant General Manager State Bank of India, Kanpur द्वारा कर्मकार Smt. Saheli को दिनांक 15-10-91 से सेवा से निष्काशित करना न्यायोचित है? यदि नहीं तो सम्बन्धित कर्मकार किस अनुत्तर का अधिकारी है?

2. The concerned worklady Smt. Ram Saheli was given employment in the opposite party Bank (State Bank of India) on compassionate ground, her husband having died in harness. On 16-4-91 she was serving at cash counter seat as clerk-cum-cashier of the opposite party bank at Bharthana Branch. She was served with the chargesheet on 16-4-91 which runs as follows—

That on 26-6-90 while she was working on the cash receipt counter her cash for inexplicable reasons was found short by Rs. 6,000. To make good the shortage she gave a withdrawal of Rs. 6,000 from her account in the next date. She has thus tried to embezzle the bank's money.

That again on 28th June 1990 she deliberately altered the details of notes coins on the pay in slip for Rs. 20 804.65 of Savings Bank account of the Krishi Utpadan Mandi Samiti Bharthana. An excess amount of Rs. 369 as per details below was deposited by the above named customer—

100 × 96 =	9600.00
50 × 116 =	5800.00
20 × 103 =	2060.00
10 × 141 =	1411.00
5 × 460 =	2300.00
small coins	65
Total	20,804.65

In the above denomination of Rs. 10 and small coins she made alterations in her own hand writing to read as under—

100 × 96 =	9600.00
50 × 116 =	5800.00
20 × 103 =	2060.00
10 × 104 =	1040.00
5 × 460 =	2300.00
small coins =	4.65

Instead of depositing in sundry deposits account she kept the excess money with herself.

Domestic enquiry was held in due course, enquiry officer after completing enquiry held that charges were proved. On the basis of this enquiry report a show cause notice was issued to the concerned worklady on 15-10-91 which was followed by order of dismissal dated 3-2-92. Appeal filed against this order was dismissed on 13-4-92. Feeling aggrieved she has raised the instant industrial dispute.

3. In the claim statement the fairness and propriety of enquiry report was challenged which fact was denied by the opposite party in the written statement.

4. On 10-9-96 it was contended by the authorised representative of the worklady vide statement recorded on English note that enquiry was fairly and properly held, the worklady would like to press her claim on the question of proportionality of punishment. Accordingly both the parties were heard on the question of punishment.

5. I have heard both the sides and have gone through record. It is evident that there has been misappropriation of Rs. 6,000 by the concerned worklady for atleast one day. It was submitted that the worklady was a new hand and had no experience of banking business and that actually there was no embezzlement hence a lenient view ought to have been taken specially when Rs. 6,000 were returned next day. I am not inclined to agree with this contention of the authorised representation of the concerned worklady. When the appointment of the concerned worklady was made on humanitarian ground it was all the more necessary for her to have worked with due care and caution she herself had conceded that Rs. 6,000 was given by her to some one. If it was so it is nothing but misappropriation with mala fide intention. The fact that she had deposited this amount next day will not mitigate the misconduct as she has to do it, as the misconduct was detected and she had no other course. The wrongful act in charge No. 2 also smacks of mala fide inten-

tion. In my opinion in banking business where such type of fraud game should not be allowed to go scotfree otherwise the very banking system would collapse. Hence it calls for extreme penalty.

6. Accordingly I am of the view that punishment by way of dismissal is quite proportionate to the gravity of misconduct. It does not call for interference.

7. Hence my award is that the action of the management in dismissing the concerned worklady from service is justified and she is not entitled for any relief.

Dated : 21-2-1997

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 6 मार्च, 1997

का०आ०. 919 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसर्ण में, केन्द्रीय सरकार आन्ध्रा बैंक के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, विशाखापटनम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-03-97 को प्राप्त हुआ था।

[संख्या एल-12012/142/93-आई.आर.(बी. 2)]
ब्राज मोहन, डेस्क अधिकारी

New Delhi, the 6th March, 1997

S.O. 919.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Vishakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Andhra Bank and their workmen, which was received by the Central Government on 06-03-97.

[No. L-12012/142/93-IR(B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, VISHAKHAPATNAM

Present :

Smt. G. Jaishree, B.Sc., LL.M., Chairman & Presiding Officer.

Friday, the 31st day of January, 1997

I.T.I.D. No. 11/93(c)

BETWEEN

The Joint Secretary,
Andhra Bank Employees Federation,
C/o. Andhra Bank,
Seetharamapuram,

VIJAYAWADA-520 004.

.. Workman

AND

The Regional Manager,
Andhra Bank, (Regional Office),
Near Powerpet, Railway Gate,

ELURU (A.P.)

.. Management.

This dispute coming on for final hearing before me in the presence of the petitioner in person and Sri C.N.V.D. Sastry, and C. Bharathi, advocates for management, upon hearing the arguments of both sides the court passed the following :

AWARD

(1) In this case, Government of India referred the dispute u/s 10(1)(d) of the I.D. Act to this tribunal for adjudication in the following terms :

“Whether the action of the management of Andhra Bank in terminating the services of Smt. K. Sanyasamma, Part-time Sweeper and in not paying prorata wages is justified ? If not, to what extent the worker concerned is entitled to ?”

(2) Claim statement is filed by the Secretary of Andhra Bank Employees Federation stating that the Regional Manager, Andhra Bank, Regional Office, Eluru adopted unfair labour practice in retrenching Smt. K. Sanyasamma, Ex-Part-time sweeper of Andhra Bank, Nidadavolu branch and the same is in violation under Sec. 25H of I.D. Act and clauses 20.8, 20.12 of Bi-partite settlement dated 19-10-1966 between the Indian Banks Association and its workmen which confers preference over others while filling up the permanent vacancy. It is stated that Smt. K. Sanyasamma has been employed in all leave vacancies of Nidadavolu branch as part-time sweeper since 1987 and whenever the permanent part time sweeper of the said branch Smt. K. Bullemma went on leave due to sickness continuously since March, 1991 and she died in July, 1991. She was appointed since 22-3-91 in the leave vacancy on scale wages and from 3-6-91 on daily wage basis which is again unfair labour practice in as much as the circular dated 4-4-80 on the Indian Banks Association, a person employed even for a day or two should be paid PRORATA WAGES on the basis of wages payable to a full time employee of the same category, unless the person concerned was employed on a work of casual nature. Smt. K. Sanyasamma was appointed by the branch due to non-availability of candidates sponsored by the employment exchange. She was appointed as part time sweeper in the leave vacancy from 22-3-91 to 22-7-91 and in permanent vacancy from 23-7-91 to 26-1-1992 i.e. for a period of 107 days in the leave vacancy and 159 days in the permanent vacancy. Since 1987, she worked for 428 days as per the service statement issued by the branch manager and she is entitled for preference over others while filling up the permanent vacancy as per Sec. 25H of the I.D. Act. Thus, it is prayed that the action of the respondent in retrenching Sri K. Sanvasamma may be declared as arbitrary, illegal and violative of the principles of Industrial Disputes act and also the by-partite settlement dated 10-10-1966 and the respondent may be directed to recruit her in the permanent vacancy of part time sweeper, Nidadavolu branch and not to appoint others in the said vacancy.

(3) Counter is filed by the management denying all the allegations made in the claim statement and it is stated that the bank has formulated a policy for recruitment in subordinate cadre including part-time sweepers which is done from among the candidates sponsored by the employment exchange. It is pleaded that the bank made a requisition to the exchange for candidates. There are no candidates sponsored by the employment exchange at a particular point of time and hence Smt. Sanyasamma services were availed by the respondent. It is pleaded that if a direction is given for reinstatement of Smt. Sanyasamma the persons who are enrolled in employment exchange, government reservation policy like S.C., S.T. and B.C. candidates who are already enrolled in employment exchange will suffer with unemployment, further they can not get even temporary or leave vacancy posts. It is pleaded ultimately that Smt. Sanyasamma was taken in a casual nature before regular employee is appointed and regular employees have to be taken only through employment exchange. Thus, it is prayed that the petition may be dismissed.

(4) On behalf of the workman, she got herself examined as WW1 and marked the service statement as Ex. W1. On behalf of the management, its personnel officer is examined as MW1 and the guidelines for appointment are filed under Ex. M1.

(5) Heard arguments of both sides.

(6) The points that arise for consideration are :

- (1) Whether the petitioner is removed illegally?
- (2) Whether the management is justified in not paying Prorata Wages to the petitioner?
- (3) To what relief is the workman entitled?

(7) Point No. 1 : The petitioner deposes as WW1 that she worked in Andhra Bank, Nidadavolu branch since 1987 in a leave vacancy as Sweeper. She worked whenever the permanent sweeper by name K. Bullemma went on leave. Smt. K. Bullemma died in July, 1991 and the petitioner continued to work in her place upto November, 1991 when she represented to the branch manager for regularisation of her services along with the service statement issued by the manager under Ex. W1. Her representation was not considered and her services were terminated stating that she was not sponsored by the employment exchange. The management examined the Personnel Officer in Andhra Bank as MW1, who does not dispute these facts deposed by WW1 and her service particulars as mentioned in Ex. W1. But he merely deposes that the bank is having some guidelines for recruiting part-time sweepers and these guidelines are contained in Ex. M1. He states that for filling up of permanent vacancies, they have to call a list of candidates from employment exchange with the qualification of 5th standard or below and aged between 18 and 25 years for part-time sweepers. They get a list of candidates from the employment exchange and maintain a panel and they make appointments from this panel even for temporary appointments and appointments in leave vacancies. This witness is not cross-examined by the workman. A perusal of the guidelines under Ex. M1 shows that in Clause 2 of the guidelines it is provided that all the vacancies of

part-time sweepers on the consolidated wages shall be filled through the employment exchange only. According to MW1 even temporary appointments and appointments in leave vacancies has to be made from the panel maintained by the bank containing list of candidates from the employment exchange. But he does not dispute that WW1 was appointed to work in leave vacancy whenever Smt. K. Bullemma went on leave even though she is not a candidate from the employment exchange. This conduct of the bank shows that they are appointing the other persons also even though they are not sponsored by the employment exchange. Further, the right of employment is a fundamental right and the same cannot be curtailed by the guidelines given by the bank that only the candidates sponsored by the employment exchange are to be considered for appointment. The bank may notify to the employment exchange for the purpose of giving opportunity to the candidates who may register themselves with the employment exchange, for being considered for appointment by the bank. But the other candidates, who did not register themselves with the employment exchange cannot be denied this opportunity. Even the guidelines under Ex. M1 provided that the persons who have experience and aptitude towards duties of a sweeper only be considered and preference may be given to those, who by tradition work as sweepers. Clause (5) of Ex. M1 further provides where part time sweepers are required, the candidates who are residing in the vicinity of the office are to be sponsored. Clause (4) provides for age and educational qualifications. It provides that illiterates are also eligible for this post of part-time sweeper and though 5th class are desirable, it is not essential. It is not to be considered for appointment if a candidate is having qualification of above 5th class. The age group is prescribed between 18 and 25 years and it prescribes for relaxation of upper age limit in certain cases. Thus, the main intention of these guidelines is to prescribe suitability for appointment of part-time sweeper on consolidated wages and a person residing in the vicinity of the premises, having experience in doing the work of sweeping and having aptitude for sweeping are prescribed as suitable without any educational qualifications. The age restriction with upper limit as 25 years is prescribed only to ensure that an able bodied person is appointed for the post as it involves physical work. MW1 does not depose that this post of part-time sweeper, carries any pensionary benefits or any superannuation age is prescribed for retirement. In these circumstances, this guidelines regarding age is only intended for getting fully grown up and able bodied persons for the purpose of this work and the same cannot be considered as an absolutely necessity where a candidate is available with other suitable conditions. In the present case the petitioner is working right from the year 1987 as shows in Ex. W1 whenever the permanent sweeper was absent and went on leave and ultimately, she continued after her death also for considerable time. Apparently, she must be residing near to the office and she has experience in sweeping. MW1 does not complain that her work was in any way found to be unsatisfactory during the period when she worked with the same bank. In her deposition the petitioner deposes that her age is 40 years but being illiterate it is not known whether it is correct unless certified by medical officer. All

These circumstances, show that the petitioner is a deserving candidate for being considered for appointment in the permanent vacancy of part-time sweeper on consolidated wages with the respondent bank. She may be insisted for producing age certificate issued by medical officer and if necessary relaxation of the age upto certain limit which may be considered as proper, may be given by the bank. Thus, I come to the conclusion that the petitioner is entitled for being considered along with the candidates sponsored through the employment exchange if any, for appointment to the post of permanent part-time sweeper with the respondent bank. But without such consideration, the bank terminated her services on the ground that she is not sponsored by employment exchange which is against fair play and justice and the same is not supported by any legal principles. Thus, I find that the services of the petitioner as part-time sweeper are terminated illegally and unreasonably. I hold on this point accordingly.

(8) Point No. 2 : The petitioner, as WW1 does not state anything about the payment of Prorata Wages. A perusal of Ex. M1 shows that part-time sweepers are to be appointed on the consolidated wage. Clause (3) of Ex. M1 provides for payment of 1/3rd scale wage to part-time sweepers only in certain conditions and it is not shown that the petitioner comes within clause (3) of this Ex. M1. Therefore, I hold that she is not entitled to Protata Wages and therefore the management is justified in not paying her protata wages.

(9) Point No. 3 : Even though I held on point No. 1 above, that the petitioner is removed illegally, her reinstatement cannot be ordered in view of the fact that the bank is contemplating to fill-up the permanent vacancy on part-time sweeper which is created by the death of its permanent part-time sweeper by name Smt. K. Bullemma. But the petitioner is entitled for a direction to the respondent bank for considering her for appointment to the post of permanent part-time sweeper, having regard to her past service to the bank whenever required. I hold on this point accordingly.

(10) In the result, award is passed answering the reference as follows : "The action of the management of Andhra Bank in not paying protata wages to part-time sweeper Smt. K. S. Sanyasamma is justified but the action of the management is not justified in terminating her services as part-time sweeper and she is entitled to be considered by the management for appointment to the permanent post of part-time sweeper along with other candidate if any."

Dictated to steno transcribed by her given under my hand and seal of the court this the 31st day of January, 1997.

G. JAISHREE, Chairman & Presiding Officer

APPENDIX OF EVIDENCE IN I.T.D.

No. 11/93 (C).

WITNESSES EXAMINED

For Workman :

WW1 : K. Sanyasamma.

For Management :

MW1 : B. Ravi Kumar.

DOCUMENTS MARKED

For Workman :

Ex. W1 : Service statement.

For Management :

Ex. M1 : Guide lines.

नई दिल्ली, 11 मार्च, 1997

कां.अ. 920 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबन्धन के संबद्ध निोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, II, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-03-97 को प्राप्त हुआ था।

[संख्या एल-12012/19/93-आई.आर.(बी. II)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 11th March, 1997

S.O. 920.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, II, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 11-03-1997.

[No. L-12012/19/93-IR(B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer

Reference No. CGIT-2/64 of 1993

Employers in relation to the management of Bank of Maharashtra

AND

Their Workmen

APPEARANCES :

For the Management : Mr. R. G. Londhe,
Representative..

For the workmen : Mr. Vinayak Karmarkar,
Representative.

MUMBAI, the 17th February, 1997

AWARD

The Government of India, Ministry of Labour, by its Order No. L-12012/19/93/IR(B) dated 26-8-93 had referred to the following Industrial Dispute for adjudication.

"Whether the action of the management of Bank of Maharashtra in relation to its Solapur region in denying the post of full time sub-staff to Shri Dhobale, part time sweeper on 1/3 scale wages, even though such post of full time sub staff has been allotted to his junior is justified? If not to what relief the workman is entitled to?"

2. The union filed a statement of claim at Exhibit-2. It is contended that in the Bank of Maharashtra the posts of full time sub-staff are being filled into a region wise seniority list of part time sweepers and the senior most part time sweeper is absorbed as full time sub-staff. The resultant vacancies occurring due to absorption of a part time sweepers into full time sub-staff are filled in through a list of temporary sweepers. In Solhapur one Mr. Dhobale was eligible and entitled to be absorbed as a permanent part time sweeper in the resultant permanent vacancy of its employee as a full time sub-staff. Instead of that other person was engaged and the union has to raise a dispute before the Labour Commissioner. In the conciliation proceeding the management agreed to absorb Dhobale as a permanent part time sweeper on 1/3rd scale in the bank at Solapur.

3. The permanent vacancy of a part time sub-staff at Parbhani Branch of the Bank was in existence in July, August, 1988. The Parbhani Branch falls under Solhapur region. As per the policy the senior part time sub-staff from amongst the list including Shri Dhobale should have been absorbed as a full time sub-staff in the vacancy occurred in Parbhani. It is pleaded instead of doing so one Survase was appointed as a full time sub-staff at Parbhani branch who neither was a senior part-time sweeper nor have been employed by the bank. It is submitted that therefore the bank has superseded seniority of Mr. Dhobale who only was eligible and entitled willing part-time sweeper to be absorbed as full time sub-staff at Parbhani branch. It is averred that at any case Dhobale had always a better claim on the basis of full-time sub-staff over survase. Under such circumstances the

action of the management is unjust and improper. It is therefore prayed that the action of the management be declared as unjust and improper and it be declared that Dhobale is entitled for the post of full time sub-staff w.e.f. August, 1988 with other reliefs.

4. The management resisted the claim by the written statement Exhibit-3. It is pleaded that the Sangh raised an Industrial Dispute before the Assistant Labour Commissioner in respect of Dhobale. In the said dispute the matter was settled and he was appointed as a part time sub-staff there on 1/3rd scale wages at its Sakarpeth Branch Solapur in the year 1988. It is also pleaded that so far as appointment of Survase is concerned it was also carried out in view of the settlement before the Assistant Labour Commissioner. It is submitted that there is a settlement under section 80(3) of the Industrial Disputes Act of 1947 which is binding on all parties to the dispute. Even then Dhobale has raised the present dispute. It is submitted that the dispute is without any basis.

5. The management submitted that the allegation that Dhobale was a senior to Shri Survase part time sub-staff is not true and correct. He was working as a part time sub-staff since 2-5-86. Survase prior to his displacement in the bank in the year 1988 was working as a part time sub-staff in Sakarpeth Branch, Solapur. He was working as a permanent part time sub-staff w.e.f. 30-11-87. It is averred that Dhobale was given a permanent post of part time sub-staff by displacing Survase. Shri Dhobale cannot be said to be senior to Shri Survase. It is averred that even on the basis of the seniority Dhobale has no better claim for the post of full time sub-staff as compared to Shri. Survase who was admittedly senior to Shri. Dhobale in the cadre. It is averred that at this ground of seniority also there is no ground to claim for the post of full time sub-staff to Shri Dhobale in the instant dispute. It is submitted that in view of the decisions of the High Court Industrial Dispute cannot be raised with regard to matters governed by the conciliation settlement. It is averred that under such circumstances the reference may be answered in favour of the management.

6. The union filed a rejoinder at Exhibit-5. It reiterated its contention in the statement of claim. It is averred that Survase was never permanent part time sub-staff in the bank to be eligible to be absorbed as a full time sub-staff and hence Shri Dhobale had always better claim for the post of sub-staff being permanent sub-staff over Shri Survase. It is denied that Survase was senior to Dhobale.

7. The issues that fall for my consideration and my findings there on are as follows :—

Issues	Findings
1. Whether the action of the management of Bank of	No.

Maharashtra in denying the post of full time sub-staff to Shri Dhobale is justified?

2. If not, to what relief the workman is entitled to? As per order.

REASONS

8. Ashok Pujari (Exhibit-11) the clerk of Camp Branch, Solhapur deposed on behalf of the union. He had given out the procedure for filling the post of sub-staff. He affirmed that posts of permanent part-time sub-staffs i.e. sweepers are filled in from amongst the candidates sponsored by employment exchange and working in leave vacancies, and posts of full time sub-staffs are filled in through the region-wise seniority list of a permanent part-time sub-staffs/sweepers. He does not dispute the position that the recruitment of full time sub-staff and part time sub-staff is not made through banking service recruitment board. Their appointments are made by the bank. He also accepts the position that there is no agreement or a settlement for such an appointment but affirm that there is a procedure which I have already stated above.

9. Pujari affirmed that Dhobale was eligible for the post of permanent part time sub-staff which occurred at Sakharpath, Solapur Branch in July, August 1988. Dhobale the worker and one Survase claimed for absorption in that vacancy. The union of Dhobale that is the present union raised an Industrial Dispute before the Assistant Labour Commissioner which came to be settled. Pujari is its signatory. The minutes of the conciliation are at Exhibit-13 and report of the Assistant Labour Commissioner to the Secretary of Labour is at Exhibit-12. It was agreed that the management will post Dhobale on a regular basis as a sweeper Sakharpath, Solhapur Branch. No doubt in these two exhibits the management nowhere admitted the position that Dhobal is senior to Survase.

10. The management appointed Dhobale at Sakharpath Branch w.e.f. 3-8-88 as regular/permanent part time sweeper/sub-staff. The result was that Survase could not be absorbed as a permanent part time sweeper. In other words it can be said that Dhobale became permanent part time sub-staff prior to Survase and automatically became senior to him.

11. It appears that the dispute which was raised by Survase's union came to be settled by the Assistant Labour Commissioner and the Memorandum of settlement is at Exhibit-15. On its basis the appointment was given to Survase which is at Ex-14 by which he was appointed as a full time sub-staff with effect from 21-9-88. It is rightly argued on behalf of the union that the paragraphs in the memorandum of settlement (Exhibit-15) clearly go to show that Dhobale is having priority over Survase. While narrating down the terms of settlements in

the short recital it is mentioned that the bank maintained that it cannot appoint Survase at Sakharpath, Solapur as it had already decided to appoint Shri Dhobale as he was having prior claim as per rules and procedure of the bank. The union has cleared that it was not averse to appoint Shri Dhobale in the bank but Shri Survase be appointed as at Sakharpath Branch, Solapur branch only since he was selected for that branch only. The bank could not agree to it and decide to proceed further in appointing Shri N. S. Dhobale. In other words it is very clear that in that dispute it was the case of the management that Dhobale is senior to Survase. Here before me they have not lead any evidence nor produced any documents showing the contrary position.

12. It can be further seen that when the conciliation was going on before the Assistant Labour Commissioner Survase was not doing the job. In the terms of settlement he is shown to be ex-part-time sub-staff sweeper. This settlement is dated 7-9-88. On that day the worker Dhobale was working as a permanent part time sub-staff. Naturally he was senior to Survase. In September '1988 the post of permanent full time sub-staff was there at Parabhani Branch. Naturally as per the rules and procedure it should have been allotted to Dhobale but instead of that it is allotted to Survase in view of the settlement (Exhibit-15).

13. From the above said discussion it is very clear that when the vacancy of a permanent sub-staff occurred Dhobale was eligible and claimant. He was senior to Survase. Under such circumstances that post should have been given to him. It appears that when it was not to be given to him atleast he should have been made party to that conciliation proceeding and his say would have been obtained before arriving at a settlement by the other union, Survase and the management.

14. For the above said reasons I find that the appointment of Survase superceeding the seniority of Dhobale is in violation of the existing procedure of the bank. It is illegal. Naturally Dhobale is entitled to be appointed as a full time sub-staff w.e.f. 21-9-88 that is the day from which Survase has been appointed. He is entitled to all consequential benefits with retrospective effect. In the result I record my findings on the issue accordingly and pass the following order :—

ORDER

The action of the management of Bank of Maharashtra in relation to its Solapur region in denying the post of full time sub-staff to Shri Dhobale, part time sweeper on 1/3 scale wages, even though such post of full time sub-staff has been allotted to his junior is not justified.

Dhobale is entitled to all consequential benefits of course after deducting the 1/3rd

scale wages which he has got with retrospective effect that is from 21-9-88.

S. B. PANSE, Presiding Officer

नई दिल्ली, 12 मार्च, 1997

कां.सं. 921 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबन्धन के संबंध में निदेशों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-3-97 को प्राप्त हुआ था।

[संख्या एल-12012/31/95-आई.आर. (बी. 2)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 12th March, 1997

S.O. 921.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 12-03-1997.

[No. L-12012/31/95-IR(B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 74 of 1995

In the matter of dispute
BETWEEN

Secretary, Central Bank Staff Association,
Ballia, Dist. Ballia.

AND

Regional Manager,
Central Bank of India,
Lanka, Varanasi.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-12012/31/95-IR.B-II dated 16-5-95, has referred the following dispute for adjudication to this Tribunal.

Whether the action of the management of Central Bank of India Varanasi in terminating the services of Sri Ramendra Kumar Choudhary, Casual workman

w.e.f. 6-12-90, and not considering him for permanent absorption in terms of the Approach Paper circulated by the Ministry of Finance in 1990 is legal and justified? If not, what relief is the said workman entitled to?

2. The concerned workman Ramendra Kumar Choudhary in his claim statement has alleged that he was engaged as a temporary peon in July, 1988 on the Ballia branch of the opposite party Central Bank of India. He worked there from 1985 to 1990 intermittently and was paid wages at the rate of Rs. 15 per day. It was later on enhanced to Rs. 20 per day. During the last one year preceding the date of termination i.e. 16-12-90 he had worked for 247 days. As at the time of retrenchment he was not paid notice pay and retrenchment compensation his termination is bad. Further it is alleged that there was a settlement dated 16-8-90 by which the management had to take all the workers who had completed 240 days. As the concerned workman had completed 240 days he ought to have been absorbed in pursuance of settlement dated 16-8-1990.

3. In the written statement the management has alleged that the concerned workman had worked for 136 days during the last one year preceding the date of retrenchment. He was not engaged as temporary employee instead he was a casual worker. Further it is alleged that there was a settlement dated 16-8-90 by which the management had to take the workers who had completed 240 days. As the concerned workman had not completed 240 days, question of observance of section 25F of I.D. Act does not arise.

4. In support of his case the concerned workman had examined himself as W.W.1. he has stated that he had worked for 240 days in the year preceding the date of retrenchment. On the other hand the management had examined S. C. Sharma Manager. His evidence is that he was posted at this branch during the relevant time. The concerned workman was engaged to provide water and to do dusting in the office. He was not given any appointment letter. He had worked only for 10 days during the month of June, 1990. He cannot tell as to for how many days he worked during the other period.

5. He was not cross examined. Thus it will be seen that the case of the concerned workman regarding number of days is un rebutted. Further the management ought to have filed voucher to prove the number of days. In its absence I believe the version of the concerned workman and hold that he had completed 240 days in a year preceding the date of retrenchment. Admittedly no retrenchment compensation and notice pay was given to him, hence his retrenchment is in breach of sec. 25F of I.D. Act and is bad in law.

6. I am further of the view that since the concerned workman has been held to have completed more than 240 days he was entitled to absorption in pursuance of settlement dated 16-8-90. the copy of which has been filed.

7. Accordingly my award is that the termination of the concerned workman is in breach of section 25F of I.D. Act and he is entitled for absorption in service in terms of settlement with back wages at the rate of which he was being paid wages for the last time.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 12 मार्च, 1997

का०प्र० 922 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, 1, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-3-97 को प्राप्त हुआ था।

[संख्या एल-17012/24/89-आई.आर. (बी. 2)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 12th March, 1997

S.O. 922.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 1, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of LIC of India and their workman, which was received by the Central Government on 11-3-97.

[No. L-17012/24/89-IR (B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, NO. 1, AT
MUMBAI

PRESENT :

Shri Justice R. S. Verma, Presiding Officer
Reference No. CGIT-34 of 1990

PARTIES :

Employers in relation to the management of
Life Insurance Corporation of India.

AND

Their Workmen

APPEARANCES :

For the Management—Shri Y. Ramachandran, Officer

For All India Insurance Employees Association—Shri A. S. Deo, Joint Secretary.

For Akhila Bharatiya Jeevan Bima Nigam, Chaturtha Srenia Karmachari Sangh—Shri Sukumar Mukherjee, Working President.

Mumbai, the 25th day of February, 1997

AWARD

The appropriate Government has referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of Life Insurance Corporation of India, Mumbai, in not giving weekly half-day holiday on Saturdays to the Building Maintenance Staff like Liftman, Pumpman, Watchman, Hamals etc. is justified ? If not, to what relief the Building Maintenance Staff of the L.I.C. of India are entitled ?”

2. The unions named hereinbelow, have espoused the cause of the Building Maintenance Staff like Liftman, Pumpman, Watchman, Hamals etc. of the Life Insurance Corporation of India (LIC) and plead that this category of staff is getting weekly half holiday on Saturdays in the state of West Bengal but is denied this half holiday on Saturdays in other states of the country and the management of the LIC is not justified in not extending the benefit of this half holiday to the aforesaid category of staff in other regions of the country. The associations which have filed their statements of claims in support of this plea are :

- (i) Akhil Bharatiya Jeevan Bima Nigam Chaturth Sreni Karmachari Sangh through Rishi Deo Dubey.
- (ii) All India Life Insurance Employees Association through R. D. D'Souza.
- (iii) All India Insurance Employees Association through Shri A. S. Deo.
- (iv) National Organisation of Insurance Workers (affiliated to B.M.S.) through Shri M. P. Patwardhan.

3. Before I refer to the statements of claim filed by the unions and the stand taken up by the LIC, I may refer to certain undisputed facts. LIC is an All India Organisation, having its offices in various parts of the country. LIC owns and possesses a large number of buildings, both resi-

dential and commercial, through out the country. Like all other employers, LIC besides other categories of staff, engages Class III and Class IV staff throughout the country. Class IV staff of LIC includes drivers, sepoys, hamals, hand peons, lift-man and watchman. There is a still lower category of Class IV staff consisting of sweepers and cleaners.

4. The LIC had a five days' week for its employees throughout the country except for the drivers and the Building Maintenance Staff, which were not allowed Saturday as a holiday. Thus, for them it was a six days' week and they were required to work on Saturdays also. This was the position which obtained throughout the country. Meanwhile, the West Bengal Shops and Establishment Act, 1963 came to be promulgated. It made a special provision for Holidays in shops and establishments. Section 5 of the said Act reads as follows :

"S.5 Holidays in Shops and Establishments.

(1) In each week—

- (a) every shop or commercial establishment shall remain entirely closed on, and
- (b) every person employed in a shop or an establishment shall be allowed as holiday.

at least one and a half day next preceding or next following such day.

- (2) No deduction on account of any holiday allowed under sub-section (1) shall be made from the wages of any person employed in a shop or an establishment, and even if such person is employed on the basis of 'no work', 'no pay', he shall be paid for such holiday the wages which he would have been entitled to had he not been allowed the holiday.
- (3) The day and the half day during which a shop or an establishment shall be entirely closed in each week under clause (a) of sub-section (1) shall, subject to the provisions of sub-section (6), be determined from time to time by the shopkeeper or employer, as the case may be, and shall be, specified by him in a notice, which shall be displayed in a conspicuous place in the shop or the establishment:

Provided that the day and the half day so determined shall not be altered more than once in any year.

- (4) The State Government may, if it thinks fit so to do in the public interest, by notification, specify any particular area and the day or both the day and the

half day during which all or any class or classes of shops or establishments in such area shall be entirely closed under clause (a) of sub-section (1), and thereupon the day or both the day and the half day, as the case may be, so specified, shall be deemed to have been determined under sub-section (3) by the shopkeeper or employer of every shop or establishment of such class or classes in such area, and the provisions of the Act shall accordingly apply."

The result was that the LIC establishments in West Bengal got a 5½ days' week. Sundays continued to be full holidays and Saturdays became half working days. The benefit of this half Saturday holiday became admissible to the Building Maintenance Staff of the LIC within the territorial limits of West Bengal to which the said Act was applicable. The said local Act, thus created a disparity in the working hours of the Building Maintenance Staff of LIC serving in West Bengal vis-a-vis their counterparts in the other states. Aggrieved, the unions raised a dispute on behalf of the Building Maintenance Staff serving in the establishments of LIC outside West Bengal and claimed that this category of staff should be uniformly granted half Saturday as a holiday as was admissible to their counterparts in the West Bengal. The management of the LIC opposed this demand and the conciliation proceedings failed, whereupon the appropriate Government referred the said dispute to this Tribunal as stated above.

5. It would be appropriate to mention here that the matter was heard by me in extenso way back on 9-10-96. The award was reserved. It could not be written/prepared as the post of Senior P.A.-cum-Stenographer is lying vacant since long. Relevant Rules governing the appointment of the Senior P.A.-cum-Stenographer have made it well high impossible for this Tribunal to search a person on deputation. The search has, so far, proved elusive and the awards have to be written in long hand by me and then are typed by a typist. Thereafter, corrections if any are made and final script is ready. On one hand, this is putting under strain on the Presiding Officer and on the other hand, it impairs efficiency of the Tribunal. In view of the said circumstances, there has been a delay in preparing this award.

6. Akhil Bhartiya Jeevan Bima Nigam, Chaturth Sreni Karmachari Sangh, hereinafter the Sangh, in its written statement of claim has taken the stand that it is the only and the sole union of the class IV employees and has its units in most of the Zonal and Divisional Offices of the LIC in the country. It has averred the facts already noticed earlier and complains that the class IV Building Maintenance Staff have to work 3½ hours more every week than their counterparts in West Bengal and the Corporation has failed to correct this anomalous situation

in spite of demand having made. It is pleaded that this amounts to unfair labour practice by the LIC. Besides, this is violative of equality clauses enshrined in Articles 14 and 16 of the Constitution of India. Upon such premises, the Sangh made the following prayer :

“Under the circumstances, your Lordships may graciously be pleased to answer the issue in favour of the concerned Building Maintenance Staffs like Watchmen, Liftmen, Sweepers, Cleaners and Pumpmen etc. by allowing them proper compensations since 1963 and also allowing them half holidays to all Building Maintenance Staffs and pass an AWARD in favour of all Building Maintenance Staff like Liftmen, Watchmen, Pumpmen, Sweepers, and Cleaners etc. other than in West Bengal State directing the LIC to compensate them since 1963 and introduce weekly half holidays to All Building Maintenance Staffs like Liftman, Watchman, Sweeper, Cleaner, Pumpman etc. except West Bengal State and grant them any other or further relief including cost of litigation as may deem fit and proper.”

7. All India Life Insurance Employees Association, hereinafter the Association, claims to be an Association of class III and class IV employees of the LIC. It claims to be a registered Trade Union duly registered under the Indian Trade Unions Act, 1926 with Head Quarters at 49 Western India House, 5th Floor, Sir P.M. Road, Fort, Bombay-400 001. It also claims to have an all India membership. It has pleaded that the service conditions of the employees of the LIC are governed by LIC of India (Staff) Regulations, 1960 and service conditions of all the employees of LIC working in all the offices, through out the country are the same. It has pleaded that the Building Maintenance Staff is part of class IV staff. However, this category of staff enjoys only one day weekly off i.e. on Sunday. They work for full day on Saturdays. However, other class IV staff and class III staff enjoys $\frac{1}{2}$ holiday on Saturdays. The LIC, in 1963 unilaterally changed the working hours of Building Maintenance Staff from 48 hours a week to 44 $\frac{1}{2}$ hours a week, so far as its offices in West Bengal were concerned. It has been pleaded that similar reduction has not been made for Building Maintenance Staff in the other states of the country. This is discriminatory and amounts to unfair labour practice. In the aforesaid premises, it made the following prayers :

“(i) That the weekly working hours of Class-III and Class-IV employees, including Building Maintenance Staff in all the Offices of the Corporation should be made 44 $\frac{1}{2}$ hours as enjoyed by employ-

ees of the Corporation working under West Bengal State. In other words, they should be awarded half-day weekly off more in every week in addition to one-day holiday they enjoy as weekly off in every week.

(ii) That in Building Maintenance Staff other than working in the Office of the Corporation under West Bengal State has worked 3 $\frac{1}{2}$ hours more every week since 1963, without additional remuneration. This Hon'ble Tribunal, therefore, be pleased to award overtime payment for this extra work done since 1963 at the rate admissible under the Corporation's rules for payment of over-time for Class-III and Class-IV employees.

(iii) And any other relief this Hon'ble Tribunal be pleased to award”.

8. The All India Insurance Employees Association, hereinafter AIEA, has outlined the history of the evolution of service conditions of the LIC staff since nationalisation of the various Insurance Companies. It was pleaded the LIC in 1957 issued an order dated 1-6-57 that was commonly known as standardisation order wherein Class IV staff of LIC was divided in various categories. The working hours of Class IV staff were laid down by the said order, which had been issued by the Government of India in exercise of its powers under subsection 2 of Section 11 of the LIC Act, 1956, hereinafter the Act. This order, being a statutory one, has the force of law and is binding on the management. It was pleaded that Corporation had also framed the Staff Regulations defining the terms and conditions of the service under Section 49 of the Act and Regulation 60A (1) and (2) provided for holidays. It was pleaded that the unions and management had signed settlements between 1956 and 1974 and the guiding principle in these settlements was of uniformity and equality in respect of terms and conditions of service. It also referred to notifications issued in 1985 and 1989 by the Government of India. Then it went on to plead :

“It is submitted that the staff such as Sweepers, Cleaners, Liftmen, Watchmen are invariably deployed in most of the above premises. Their number depends upon the size of the Building and requirements. The timing of the offices of the Corporation is generally common viz. 8 hours on full working days and 4 $\frac{1}{2}$ hrs. on Saturdays. These office of the Corporation enjoy all Bank Holidays of the respective State in which the office is located. The Building Staff attached to these offices enjoy the same holidays and half days on Saturdays. But Watchmen attached to these premises do not get half day on Saturdays. Besides, in some

offices like Yogakshema the Building Staff is compulsorily made to work on Saturdays for full days. But the Building Maintenance Staff attached to various other establishments do not get the lawful and legitimate benefit of half day on Saturdays. Watchmen, in none of these Buildings, enjoy half days on Saturdays. Whereas the liftmen attached to LIC Buildings, where the Corporation has its offices exclusively enjoy half day on Saturdays.

It is submitted that since the Corporation is indulging in patent discrimination in the matter of enjoyment of half-day on Saturdays between one section of sub-staff and another and within the same category though not permissible under the law the Association has been pursuing the demand of removal of distribution in respect of enjoyment of half-day on Saturdays with the management for long. Meanwhile, one of the Unions in the industry thought it fit to raise the dispute with the conciliation machinery and having failed to resolve due to the staff attitude of the management of the Corporation the Government decided to refer the dispute for adjudication."

9. It inter alia pleaded that the Corporation being a public sector undertaking is a 'state' within the meaning of Article 12 of the Constitution of India and hence there can be no discrimination in enjoyment of half day leave on Saturday. It claimed the following reliefs :

- “(a) To award weekly half day on Saturdays to all categories from among the Building Staff who are denied this benefit for one reason or another.
- (b) To declare and hold as bad and unjustified the present practice and so called rules based on discrimination and unfairness in the matter of grant of half day on Saturdays to the staff covered by the Building Maintenance Staff and to grant them half day on Saturdays since they were appointed or from the time they are discriminated and denied this lawful and legitimate benefit.
- (c) To award payment of compensation by way of overtime as per the present rules of the Corporation for the extra work done on all such Saturdays by the concerned staff.
- (d) To award appropriate costs which in the view of the Hon'ble Tribunal deems necessary in the facts and circumstances of the case.”

10. National Organisation of Insurance Workers (BMS) Bombay have raised the plea of hostile discrimination with regard to Building Maintenance Staff at Bombay vis-a-vis their counterparts in West Bengal and have averred that this category of staff has to work for 48 hours per week in Bombay while in West Bengal, they are required to work for 44 hours per week. Thus, the staff in Bombay is deprived of the extra work, put in by it, for four hours per week. It has pleaded that the Bombay Shops and Establishment Act puts a ceiling on the maximum hours of work that an employee can put in but does not put embargo in reducing the hours of work. Upon such premises and other pleas, they have prayed for following reliefs :

- (a) Discriminatory treatment meted out to Staff Members of the Building Maintenance Department working in Bombay D.O. and rest of the Country in not giving them half-day holiday on Saturday in comparison to their counterparts in West Bengal where they get half-day holiday on Saturday, be discontinued.
- (b) that the working hours of Building Maintenance Department be brought at par with half-day holiday on Saturday as available to Staff Members of the Building Maintenance Department of West Bengal, throughout India..
- (c) that the Staff Members of Building Maintenance Department working in Bombay and rest of the country be paid Overtime Allowance for 4 hours extra work put in by them on Saturdays since 1963.

11. The LIC has contested the claims and have filed replies to each one of the written statements of claims, filed by the four organisations. It has not disputed the fact that Building Maintenance Staff in West Bengal has to put in lesser hours of work per week, Saturday being observed as a half holiday, as per provisions of the West Bengal Shops and Commercial Establishments Act. It has pleaded that the terms and conditions of service are laid down by Government of India in exercise of powers u/s. 48 of the LIC Act. It has also traced out the history of amalgamation of various private insurance companies in the Nationalised Corporations and has also referred to its regulations. It's contention is that only the Central Government can vary or alter the terms and conditions of the employees of the LIC and this Tribunal has no jurisdiction in this matter. Some other pleas have also been raised but they need not detain me at this juncture and I shall take note of such pleas as and where required.

12. Rejoinders have been filed by All India Life Insurance Employees' Association, All India Insu-

rance Employees Association and Akhil Bharatiya Jeevan Bima Nigam (Chaturth Sreni Karamchari Sangh, wherein it has been asserted that this Tribunal does have jurisdiction to hear the dispute.

13. The issue which squarely falls for consideration before me is whether the action of the management of LIC, Bombay, in not giving weekly half day holiday on Saturdays to Building Maintenance Staff is justified? If not, to what relief these workmen are entitled to?

14. It would be pertinent to mention that the issue is confined to management of LIC, Bombay and since this Tribunal is not an ordinary Civil Court, but is a Tribunal having referred jurisdiction to deal with grievances of similar staff in other states. The pleadings of the organisations espousing the cause of the workmen have tried to give it colour of a dispute pertaining to building maintenance staff of LIC in the country as a whole, excepting the state of West Bengal, but that is clearly beyond the pale of my jurisdiction and I refuse to entertain the question in its wider perspective and outside the scope of the reference made to me. This is, notwithstanding the fact that LIC is an All India Organisation.

15. Now, when I look to the essence of the dispute, the basic grouse is that Building Maintenance Staff in West Bengal has lesser working hours than the similar staff of Bombay and hence there is violation of the equality clauses of the Constitution of India. Other pleas are only incidental. The basic question, therefore, is whether the LIC management in Bombay ought to have reduced the working hours of its Building Maintenance Staff in keeping with the reduction of working hours of the staff in West Bengal and non-reduction of the working hours is violative of equality clauses of the constitution and results in hostile discrimination.

16. The second question is if this Tribunal has jurisdiction to hear this dispute or not or else alteration and variation in service conditions of such staff is within exclusive purview of the Central Government.

17. Both the contesting sides have filed some documentary evidence. Employees Organisation have examined Mr. J. M. Nanal in their evidence. I shall refer to such evidence, as is material and relevant at its proper stage and do not deem it proper to encumber this award by recital of evidence, which is either not material or not germane for deciding the twin issues before me.

18. I have heard the learned representatives of parties at length and have considered the rival contentions and have perused the record. I shall first of all deal with the question of jurisdiction.

Section 7A(1) of the Industrial Disputes Act reads as follows :

"7-A. Tribunals.—(1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule (and for performing such other functions as may be assigned to them under this Act)."

Entry 1 of the third schedule reads as follows :

"1. Wages including the period and mode of payment entries 3 and 4 of the said schedule respectively read as under :

"3. Hours of work and rest intervals.

4. Leave with wages and holidays."

Now, these entries, when read collocatively clearly bring the dispute raised by the various organisations against the LIC within the jurisdiction of the Tribunal. Section 11 of the LIC Act, 1956 deals with only specific contingencies and only in given situations, its provisions override the provisions of the I.D. Act. This Section 11 reads as under :

"11. Transfer of service of existing employees of insurers to the Corporation.

(1) Every whole-time employee of an insurer whose controlled business has been transferred to and vested in the Corporation, and who was employed by the insurer wholly or mainly in connection with his controlled business immediately before the appointed day shall, on and from the appointed day, become an employee of the Corporation, and shall hold his office therein by the same tenure, at the same remuneration and upon the same terms and conditions and with same rights and privileges as to pension and gratuity and other matters as he would have held the same on the appointed day if this Act had not been passed and shall continue to do so unless and until his employment in the Corporation is terminated or until his remuneration, terms and conditions are duly altered by the Corporation;

Provided that nothing contained in this sub-section shall apply to any such employee who has, by notice in writing given to the Central Government prior to the appointed day, intimated his intention of not becoming an employee of the Corporation.

- (2) Where the Central Government is satisfied that for the purpose of securing uniformity in the scales of remuneration and the other terms and conditions of service applicable to employees of insurers whose controlled business has been transferred to, and vested in, the Corporation, it is necessary so to do, or that, in the interest of the Corporation and its policy-holders, a reduction in the remuneration payable, or a revision of the other terms and conditions of service applicable, to employees or any class of them is called for, the Central Government may, notwithstanding anything contained in sub-section (1), or in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, or in any award, settlement or agreement for the time being in force, alter (whether by way of reduction or otherwise) the remuneration and the other terms and conditions of service to such extent and in such manner as it thinks fit; and if the alteration is not acceptable to any employee, the Corporation may terminate his employment by giving him compensation equivalent to three months remuneration unless the contract of service with such employee provides for a shorter notice of termination.

Explanation.—The compensation payable to an employee under this sub-section shall be in addition to, and shall not affect, any pension, gratuity, provident fund money or any other benefit to which the employee may be entitled under his contract of service

- (3) If any question arises as to whether any person was a whole-time employee of an insurer or as to whether any employee was employed wholly or mainly in connection with the controlled business of an insurer immediately before the appointed day, the question shall be referred to the Central Government whose decision shall be final.
- (4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the service of any employee of an insurer to the Corporation shall not entitle any such employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority."

The opening words of sub-section 2 of this section make it abundantly clear that the power under the section is exercisable for securing uniformity of service conditions etc. to employees of insurers, whose controlled business had been transferred to the LIC. Thus, the contention that provisions of Section 11 of the LIC Act altogether exclude the jurisdiction of the Tribunal in matters of disputes pertaining to various entries of third schedule of the I.D. Act has no legs to stand on and deserves to be rejected.

Section 23 of the LIC Act also does not impinge upon the jurisdiction of this Tribunal. Section 23 of the LIC Act reads as follows :

"23. Staff of the Corporation.—(1) For the purpose of enabling it to discharge its functions under this Act, the Corporation may employ such number of persons as it thinks fit.

- (2) Every person employed by the Corporation or whose service have been transferred to the Corporation under this Act, shall be liable to serve anywhere in India."

This section nowhere excludes the jurisdiction of the Tribunal in a dispute like the present one. Reference was made to Section 48 of the LIC Act. This section reads as follows :

"Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :
- (a) the term of office and the conditions of service of matters;
 - (b) the manner in which the moneys and other assets belonging to any such fund as is referred to in Section 8 shall be apportioned between the trustees of the fund and the Corporation;
 - (c) the services which the chief agent should have rendered for the purpose of the proviso to Section 12;
 - (cc) the terms and conditions of service of the employees and agents of the Corporation, including those who became employees and agents of the Corporation on the appointed day under this Act;
 - (d) the jurisdiction of the Tribunal constituted under Section 17;

- (e) the manner in which, and the persons to whom, any compensation under this Act may be paid;
 - (f) the time within which any matter which may be referred to a Tribunal for decision under this Act may be so referred;
 - (g) the manner in which and the conditions subject to which investments may be made by the Corporation;
 - (h) the manner in which an Employees and Agents Relations Committee may be constituted for each zonal office;
 - (i) the form in which the report giving an account of the activities of the Corporation shall be prepared;
 - (j) the conditions subject to which the Corporation may appoint employees;
 - (k) the fees payable under the Act and the manner in which they are to be collected;
 - (l) any other matter which has to be or may be prescribed.
- [(2-A) the regulations and other provisions as in force immediately before the commencement of the Life Insurance Corporation (Amendment) Act, 1981 with respect to the terms and conditions of service of employees and agents of the Corporation including those who became employees and agents of the Corporation on the appointed day under this Act, shall be deemed to be rules made under Cl.(cc) of sub-section (2) and shall, subject to the other provisions of this section, have effect accordingly.
- (2-B) The power to make rules conferred by Cl. (cc) of sub-section (2) shall include—
- (i) the power to give retrospective effect to such rules, and
 - (ii) the power to amend by way of addition, variation or repeal, the regulations and other provisions referred to in sub-section (2-A), with retrospective effect; from a date not earlier than the twentieth day of June, 1979.
- (2-C) The provisions of Cl. (cc) of sub-section (2) and sub-section (2-B) and any rules made under the said Cl. (cc) shall have effect, and any such rule made with retrospective effect from any date shall also be deemed to have had effect from that date, notwithstanding any judgment, decree or order of any Court, Tribunal or other authority and notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947) or any other law or any agreement, settlement,

award or other instrument for the time being in force]

- [(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session of the successive sessions aforesaid, both Houses agreed in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]”

This section empowers the Central Government to make rules to carry out the various purposes of the Act. It inter alia empowers the Central Government to make rules under sub-section (2) clause (cc) to govern “the terms and conditions of service of the employees and agents of the Corporation”. This power is preserved by Section (2c) of this section which makes this power overriding, notwithstanding anything contained in the Industrial Disputes Act. Section 49 of the LIC Act empowers the Corporation to make Regulation with the provisions approval of the Central Government as laid down in this section. This section reads as follows :

- “49. Power to make regulations.—(1) The Corporation may, with the previous approval of the Central Government, by notification in the Gazette of India, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is expedient for the purpose of giving effect to the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for:—
- (a) the powers and functions of the Corporation which may be delegated to the Zonal Managers;
 - (b) the method of recruitment of employees and agents of the Corporation ***)
- [(bb) “ * * * *”].
- (c) the number, term of office and conditions of service of members of Board constituted under Section 22;
 - (d) the territorial limits of each zone established under this Act and the business to be transacted in each zone;

- (e) the manner, in which the Fund of the Corporation shall be maintained;
- (f) the maintenance of separate funds and accounts at each of the zonal offices;
- (g) the jurisdiction of each divisional office and the establishment of Councils representative to policy-holders in each area served by a divisional office for the purpose of advising the divisional office in respect of any matter which may be referred to it;
- (h) the conduct of business of meetings of the Corporation;
- (i) the formation of Committee of the Corporation and the delegation of powers and functions of the Corporation to such committees, and the conduct of business at meetings of such Committee;
- (j) the form and manner in which policies may be issued and contracts binding on the Corporation may be executed;
- (k) the classification of policies, whether issued by the Corporation or by any insurer whose controlled business has been transferred to and vested in the Corporation, for the purpose of declaring differential bonuses, wherever necessary;
- (l) the manner in which and the intervals within which the accounts of the various zonal offices, divisional offices and branch offices may be inspected and their accounts audited;
- (m) the conditions subject to which any payment may be made by the Corporation.

[3] every regulation made under this section shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both House agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall, thereafter have effect only in such modified form or be of no effect, as the case may be; however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

19. When the aforesaid provisions are read together, they only indicate the powers of the Central Government and the LIC, in respectively framing

rules and regulations. They do not deal with resolution of dispute of the nature raised before me. In my considered opinion, the dispute can be adjudicated by this Tribunal. However, it would be an entirely different thing whether the Tribunal can alter or modify the terms and conditions of service laid down by statutory rules/regulations. I decide this point accordingly.

20. Now, the question is if the LIC Bombay has acted improperly in not reducing the working hours of the Building and Maintenance Staff because in West Bengal, such working hours had been reduced by virtue of the provisions of the West Bengal Shops and Establishments Act. Now, this discrimination, is not attributable to any action of the LIC Bombay. It has merely continued with the working hours fixed earlier. To call this action violative of equality clauses of the constitution loses sight of the Republican Character of Indian Policy, where each state within given sphere, has power to legislate on matters, falling within its legislative competence. If the West Bengal Legislature passed a particular legislation, the LIC within the territorial limits of West Bengal was bound to comply with the statutory mandate of such legislation. Not doing so, would have been a violation of West Bengal Law and for violation LIC (West Bengal) would have been held accountable. If the Maharashtra Legislature in its wisdom, did not pass such a law, it was within its competence to do so. LIC Bombay is bound to follow the law prevailing in Maharashtra. The contention that LIC Bombay, should have reduced the working hours of the Building Maintenance Staff in keeping with the West Bengal law, is devoid of all merit.

21. The concept of equality clauses has a basic tenet viz. equality clauses apply between similarly situated persons. If some inequality has been introduced by a legislation of a particular state, then it is not a discriminatory act on the part of the LIC Bombay but discrimination has cropped up due to factors other than a volitional act of the LIC Bombay. Article 14 assures equality to all persons before the law. However, this does not and can not mean that in their application all laws shall be equal to all persons. Local law, applicable to a particular state may and do create discrimination, but then such a discrimination is not violative of the clauses of equality. Reference may be made in this regard to AIR 1981 S.C. 1829 Air India Vs. Nargesh Meerza and reference may also be made to AIR 1989 S.C. 1049 Imperial Bank of India. Therein, pensioners of the same employee based at London were held to constitute a class by themselves vis-a-vis other pensioners and it was held that there was no discrimination. On a parity of reasoning, the employees in West Bengal, governed by provincial law, constitute a well defined separate class and if some privileges have been conferred on them by virtue of local law, it can not be said that there is any discrimination

against employees, serving in other parts of the country.

22. If the argument of the employees organisations is taken to its logical conclusion, then it may spell out disastrous consequences for the entire organisation. Say, as a hypothetical case, the state of Kerala passes a legislation where total working hours in a week are reduced to 30. Later on another state passes a similar legislation reducing the working hours to 25. Would it mean that every time, a particular legislation reduced the working hours in its own state, the organisation should go on reducing the working hours of similar staff in other regions also. India being a Republican Polity, we have affluent states like Punjab and Haryana on one end of the scale and Bihar and Rajasthan, the poorer states on the other scales.

23. Shri J. M. Nanal filed his affidavit in support of the cause of the workmen. The thrust of his statement is that LIC had been observing the principle of uniformity of working hours. He has referred to the past practice of lifts being operative for half days on Saturdays in LIC Building. He has tried to suggest that these Liftmen were being allowed half holiday on Saturday. But, this stand is contrary to the pleadings.

24. I may state that the various documents filed by the two sides are besides the point and I need not encumber this award by reproducing these documents or even gist thereof.

25. On the facts and circumstances of the case, I find that the workmen, whose cause has been espoused by the four unions, are not entitled to any relief and there is nothing wrong in LIC Bombay in adhering to the working hours, in various states, other than West Bengal.

R. S. VERMA, Presiding Officer

नई दिल्ली, 12 मार्च, 1997

कां० प्र० 923.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार युनाइटेड बैंक ऑफ इंडिया के प्रबन्धतंत्र के संबंध निधोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचायत को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-3-97 को प्राप्त हुआ था।

[संख्या एल-12012/157/85-D.II(A)/आई.आर. (बी. 2)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 12th March, 1997

S.O. 923.—In pursuance of Section 11 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of United Bank of India and their workman, which was received by the Central Government on 12-3-1997.

[No. I-12012/157/85-D.II (A)/IR (B-II)]
BRAJ MOHAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 6 of 1986

PARTIES :

Employers in relation to the management of United Bank of India

AND

Their workmen.

PRESENT :

Mr. Justice K. C. Jagadeb Roy, Presiding Officer.

APPEARANCES :

On behalf of Management—Mr. R. N. Mazumder, Advocate.

On behalf of Workmen—Mr. S. Chakraborty, Advocate with Mr. S. K. Baid, Advocate.

STATE : West Bengal

INDUSTRY : Banking

AWARD

By Order No. L-12012/157/85-D.II (A) dated 20th January, 1986 and Corrigendum of even number dated 10-6-1986 the Central Government in exercise of its powers under Section 10(1)(d) and (2-A) of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of United Bank of India, Head Office, Calcutta in imposing the punishment of dismissal of S/Shri Manabendra Saikia, Head Cashier, Maheshwar Jha, Driver and Mrinal Chowdhury, Relieving Sub-Staff, withdrawal of special allowance in respect of Sreedam Mondal, Doctary and stoppage of annual increments of S/Shri Tapas Kumar Banerjee, Clerk, Amit Roy Chowdhury, Clerk, Ravindra N. Karmakar, Head Cashier, Ashok Kumar Goel, Clerk, Shashi Kant Chowdhury, Clerk, Indrajit Prasad, Sub-staff, Krishan Kumar, Sub-staff, Paradip Chakraborty, Cash Clerk, Rajendra Ojha, Sub-staff and Sachin Roy, Armed Guard is justified and the management has not adopted any unfair labour practice ? If not, to what relief the workmen concerned are entitled ?"

2. The order of reference relates to 7 different incidents involving 14 workmen on different places in India, out of whom the case of one Manabendra Saikia, Head Cashier who was chargesheeted as per Ext. M-1 under the chargesheet dated April 28, 1983 had been taken up independently by the then Presiding Officer Mr. Justice M. N. Roy who had passed his Award describing that as Award Part I on 24th February 1993 and the Award has been already been published. The cases of rest of the workmen are detailed in the following chart, which is now the subject matter of the adjudication :

Date of incidence	Place of occurrence	Concerned workmen
1. 9.2.1983	Head Office of the Bank and Chamber of AGM (P & MS), 16 Old Court House Street, Calcutta.	Maheshwar Jha, Mrinal Chowdhury & Sreedam Mondal.
2. 7.2.1983	At the Old Court House Street Branch of the Bank.	Amit Roy Chowdhury.
3. 27.5.1983	Sepoi Bazar Branch, M8dnapore, W.B.	Rabindra Nath Karinakar.
4. 10.2.1983	Reginal Office, New Delhi.	Ashok Kumar Goel

5. 25.7.1981 Giridih Branch of the Bank, Bihar. Sasbi Kanta Choudhury Inderajit Prosad Krishna Kumar, Pradip Chakraborty, Rajendra Ojha Sachin Roy.
6. 30-12.1983 Chin-surah Branch of the Bank. Tapas Kumar Banerjee.

3. Before this Tribunal, both the workmen and the management filed their written statements, followed by rejoinder by the workmen.

4. On the very outset, the clubbing of the different workmen involved in different disciplinary proceedings for different incidents recurring on different dates and different places in India in one Reference case caused serious difficulties in shifting the evidence for proper adjudication of the case.

5. The validity of the respective domestic enquiries was taken up for as a preliminary issue and Mr. Justice Sukumar Chakraborty the then Presiding Officer of this Tribunal by his order dated 27th August, 1990 passed order in this reference case holding that the domestic enquiries concerning all the workmen, excepting one delinquent namely Shri Ashoke Kumar Goel, were valid and declared that the enquiry against Shri Ashoke Kumar Goel was invalid. Shri Ashoke Kumar Goel was appears in the aforesaid chart at Serial No. 4 was proceeded in a disciplinary proceeding while he was working in the Regional Office, New Delhi. The then Presiding Officer in passing his order dated 27 August, 1990 directed the Management to lead evidence in support of the charge against the aforesaid delinquent Ashoke Kumar Goel and further directed that all the cases should be considered on merits after the receipt of the said evidence.

6. It is worthwhile to mention here that the workmen did not choose to challenge the legality of the order of this Tribunal dated 27 August, 1990 holding that all the domestic enquiries, excepting the one against the delinquent Ashoke Kumar Goel, were valid and accordingly that issue had attained the finality.

7. Out of the aforesaid 13 workmen in respect of whom the enquiry was found valid, I take-up first the cases of Maheswar Jha, Mrinal Chowdhury and Sreedam Mondal who were proceeded for their misconduct detailed in the chargesheet for the incident that happened in the Head Office of the Bank at 16, Old Court House Street, Calcutta on the 9th of February, 1983. Shri Maheswar Jha, Mrinal Chowdhury who were Driver and Relieving Sub-Staff of the Bank respectively were dismissed by way of punishment, whereas Shri Sreedam Mondal a Dafitary of the Bank, though was found to be guilty of the charges, order of punishment was passed withdrawing his special allowance that he was getting as a Dafitary.

8. Since in the case of these three workmen, the order on the preliminary issue was passed in favour of the management holding that the enquiry was valid, the question of obviating any further opportunity to the management to justify the bonafides of their action did not arise and no evidence was accordingly led by the parties. The case of these three persons are to be considered only on the materials on record, namely the enquiry report evidence led at the enquiry and the charges that were levelled against these persons and their replies to the charges.

9. The facts leading to the issue of the charge sheet dated 10th March, 1983 in respect of these 3 persons namely Shri Maheswar Jha, Mrinal Chowdhury and Sreedam Mondal are as follows.

On 9 February 1983 at about 11 A.M., as alleged by the management, the three workmen mentioned above, leaving their respective work without any permission from their competent authority made in unlawful assembly on the 5th floor of the Bank's Head Office building in Calcutta and at about 12 noon alongwith 70 to 80 employees of the Bank wanted to forcibly enter inside the chamber of Shri S. N. Ghosh the then Deputy General Manager (Personnel and Management Services) and demanded in loud voice before the Stenographer attached to Shri Ghosh who used to sit in the adjoining room, to open-up the door leading to the

chamber of Shri Ghosh and hammered the window pannel of the Chamber causing great noise and ultimately forced themselves into the Chamber. The chamber was completely filled with those people leaving no space whatsoever. They removed the telephones from the cables while shouting at the top of their voice. Of these three workmen, Maheswar Jha shouted at Shri Ghosh abusing him in most filthy language as quoted below :

"BAHIN CHOD, MATHER CHOD, BICHI KATAY NEBO, D. N. GHOSER SHALA, TOMAR PONDE BASI, TOMAI TOOTIY PHELE DEBO, SHOEAR BACHHAY, KHANKIR CHELPY ETC."

He also behaved himself further in most filthy manner and continued to manner the table of Shri Ghosh as well as the window pannels of the wall inside the chamber causing terrific noise. As a result, complete chaos prevailed forbidding Shri Ghosh to proceed with his work. Other executives who were sitting on that floor were too much disturbed to do any work and in this process these miscreants, according to the management, took control of the entire executive floor. The fifth floor of the building is known as executive floor as all the executive officers of the Bank sit on the said floor and there was a complete pandemonium that prevailed there. Even though Shri Ghosh requested the mob to come back for discussion latter and to vacate the chamber that was not heeded to by them and the Deputy General Manager (P and MS) Shri Ghosh was hauled by these three workmen. These three workmen made a demand that Shri Nanigopal Sengupta, Assistant General Manager (P and MS) who was at that time at the adjoining chamber of Dr. S. N. Ghosal, Deputy General Manager (Coordination-II) be brought to the chamber of Shri S. N. Ghosh Deputy General Manager (P and MS) which Mr. Ghosh refused to accept being illegal demand. Whereupon Shri S. N. Ghosh was told that unless Shri Sengupta the Assistant General Manager come out of his own, the said three workmen would go and bring him physically. At the point of time Shri Anjan Charatterjee, Assistant Chief Officer, Personnel Department, entered into the chamber of Shri S. N. Ghosh to pacify the unruly mob but such pursuation had no effect and this riotous disorderly behaviour continued. When Shri Sengupta was brought to the chamber of Shri S. N. Ghosh, he was unlawfully harassed by these three workmen as well as the mob, Maheswar Jha, Mrinal Chowdhury and Sreedam Mondal continued to hurl abuses using highly derogatory language, saying the following in Bengali :

"A DALAL OF U.B.I.E.A. SHALA AT-BUROH, TOMAKE MEYA SUPPLY KORATAY HOBE"

At time the mob continued to push and rock the chair on which Shri S. N. Ghosh, Deputy General Manager (P and MS) seated and a tray kept on the table of Shri Ghosh was thrown at Shri Sengupta the Assistant General Manager by a Section of the job which hit Shri Sengupta on his chest. These three persons Maheswar Jha, Mrinal Chowdhury and Sreedam Mondal were all along present in the chamber of Shri S. N. Ghosh, Deputy General Manager (P and MS) while instigating the job as aforesaid. Because of these actions on the part of the workman concerned, chargesheet was issued against each one of them alleging the following :

- (a) Riotious/disorderly, indecent behaviour on the premises of the bank ;
- (b) Attempt to cause damage to the property of the bank ;
- (c) Wilful insubordination/disobedience of any lawful and reasonable orders of the management ;
- (d) Committed an act prejudicial to the interest of the bank ;
- (e) Failing to show proper consideration, courtesy etc. towards the officers unseemly/un satisfactory behaviour while on duty ;
- (f) Neglect to work."

10. The chargesheets which are annexed to the written statement of the workman as Annexure, A, B, and C dated 10-3-1983 in each case contained the synopsis of the allegations in clear terms, to which these workmen had replied, denying the allegations alleging that they were vague, baseless, untrue, concocted, fabricated, imaginary and motivated. While they denied the allegation levelled against them, they

however admitted that there was a peaceful demonstration took place on 9-3-1983.

11. One Shri S. K. Ghosh an officer of the Bank was appointed as the Enquiry Officer. No challenge was made by the workmen against the appointment of Shri S. K. Ghosh as the Enquiry Officer and Shri Ghosh conducted a detailed enquiry in which the management had examined Shri S. N. Ghosh, Deputy General Manager (PM & S) as Management witness No. 1, Shri R. K. Goswami an officer of the Personnel Department of the Bank as Management Witness No. 2, Shri Anjan Chatterjee the Assistant Chief Officer, Discipline and Industrial Relations in the Personnel Department as Management witness No. 3, Shri Udit Shankar Mukherjee as Officer of the Personnel Department, DIR Section as Management Witness No. 4, Dr. S. N. Ghosal, Deputy General Manager (Coordination-II) as Management witness No. 5, and Shri Nanigopal Sengupta, Assistant General Manager (P and MS) as Management witness No. 6.

The management also filed documents namely copies of the chargesheets bearing No. PD/DIR/1472 dated 10-3-1983, PD/DIR/1459 dated 30-3-1983 and PD/DIR/1460 dated 10-3-1983 under the signature of the Chief Officer, Personnel Department addressed to Shri Maheswar Jha, Mrinal Chowdhury and Sreedam Mondal respectively, collectively marked Ext. M-1, copies of the respective written explanation filed by the three chargesheeted employees to their chargesheets dated 10 March 1983 addressed to the Chief Officer, Personnel Department, collectively marked as Ext. M-2, a copy of the report of the incident that occurred in the chamber of the Deputy General Manager (P and MS) on 9-2-1983 signed by Shri S. N. Ghosh dated 14-2-1983 marked Ext. M-3, copy of the chargesheet letter dated 1-2-1983 of the Assistant General Manager addressed to Shri Indranil Mazumdar marked as Ext. M-4, copy of the printed lifted dated March 30, 1983 issued under the signature of D. N. Bhattacharjee of the Public Relations Department, U.B.I., Head Office marked as Ext. M-5 in order to prove the incident of 9-2-1983 and the act of misconduct committed by the three delinquents on the said date during that incident.

12. The delinquents Maheswar Jha, Mrinal Chowdhury and Sreedam Mondal examined on their behalf Sri Dilip Mukherjee an officer of the Bank who is now the Secretary of the Head Office Unit of the U.B.I. Shramik Karmachari Samity and the Joint Secretary of the All India Working Committee of the said Union, as DW-1, Shri Kartick Chatterjee an Officer of the Bank and Vice President of the All India Working Committee and also the President of the West Bengal Region-I of U.B.I.S.K.S. as DW-2, Shri Prabhakar Chatterjee, Machine Operator of I.C.T. Department and Secretary of the Calcutta Regional Committee of U.B.I.S.K.S. as DW-3, Shri Amit Roy Chowdhury a Machine Operator of Bank's Old Court House Street Branch and the Branch Secretary and also the Joint Secretary of U.B.I.S.K.S. as DW-4, Shri Mrityunoj Ganguly, Regional Secretary of the union of its West Bengal Region-III and ex officio working committee member of U.B.I.S.K.S. as DW-5 and produced from their side a copy of the letter dated 9-2-1983 of the General Secretary of the Union addressed to the Deputy General Manager (P and MS) as DE-1, letter PD/755 dated 14-2-1983 of Deputy General Manager (P and MS) to the General Secretary, U.B.I.S.K.S. as Ext. DE-2, copy of the circular No. PD/DIR/72/82 dated 2 June, 1982 of the Deputy General Manager (P and MS) marked Ext. DE-3, xerox copy of the letter No. PD/UN/2/604 dated 15-10-1982 of the D.G.M. (P and MS) addressed to the General Secretary, U.B.I.S.K.S. marked Ext. DE-4, circular letter No. PD/DIR/AC/102/81 dated 11-8-1983 of the Deputy General Manager (P and MS) as Ext. DE-5, xerox copy of the attendance register of Bank's WBR-I Office for the month of February 1983 as Ext. DE-6, xerox copy of the letter No. W/BR-III/RM/IC/83 dated 11-2-1983 of the Regional Manager, West Bengal Region-III addressed to Shri Indranil Mazumdar Officer of the Coke Over Branch (Ext. DE-7) in proof of their defence.

13. The enquiry report alongwith the proceeding of the enquiry running to 645 pages in respect of these 3 employees have been placed before this Tribunal. In his report dated 30-9-1983 the Enquiry Officer gave his conclusion holding the three persons namely Maheswar Jha, Mrinal Chowdhury and Sreedam Mondal guilty of the aforesaid charges levelled against them.

14. The disciplinary authority by his letter dated 30 June, 1984 dismissed Shri Maheswar Jha and Mrinal Chowdhury with immediate effect which was done after giving each of them a second show cause notice dated 6th April 1984 and giving each of them an opportunity of personal hearing, while a letter dated 16th June, 1984 was issued containing the order of the disciplinary authority imposing the punishment on Shri Sreedam Mondal of stoppage/withdrawal of special allowance for a period of 6 years with immediate effect. This was also after complying the norms and procedure as required under the Bipartite Settlement. This lesser punishment was awarded against Shri Mondal by the disciplinary authority by taking into consideration the fact that Shri Mondal had not actually indulged in manhandling of Shri Anjan Chatterjee.

15. The contention of the management in this Tribunal is that the Tribunal should not interfere with the punishment in none of these cases as the Tribunal is not vested with the jurisdiction to sit in appeal against the findings arrived at the domestic enquiry, if the findings are passed on the materials. The sufficiency of evidence is therefore not to be gone into by the Tribunal in interfering with the punishment, unless the Tribunal comes to hold that the findings of the domestic enquiry is perverse. Mr. Mazumdar, learned counsel appearing for the management urges that in none of these cases the Tribunal would find that the findings arrived at in the domestic enquiry conducted by the management was vitiated for want of basis to support the finding of the Enquiry Officer and in all these three cases the preliminary issue was decided holding the enquiry as fair and there are materials in support of the findings. The punishment in case of Sreedam Mondal cannot be interfered with as Section 11-A has no application to this case. Of these three, only the other two namely Maheswar Jha and Mrinal Chowdhury were punished with the order of dismissal. In their cases alone the Tribunal can interfere with the quantum of punishment, only if it came to hold that the punishment was disproportionate to the gravity of the charges levelled against the workmen or either of them, otherwise there being materials to support the finding of guilty by the Enquiry Officer, the Tribunal should not sit in appeal to reassess the evidence in its own way and interfere with the finding of guilt and accord relief on that score.

16. Section 11-A was introduced into the parent Industrial Disputes Act of 1947 by the Act of 1971 which is quoted below :

"11 A. Powers of Labour Courts, Tribunal and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen—

Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the court of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require ;

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter."

This gives the Tribunal, National Tribunal and the Labour Courts jurisdiction to grant appropriate relief in case of discharge or dismissal of a workman when the Tribunal etc. if it is satisfied that the order of discharge or dismissal was not justified. It may by its Award set aside the order of dismissal or discharge and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit or give such other relief to the workman including the award of lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require.

Prior to the introduction of Section 11-A the position was that when a proper enquiry was held by the employer and a plausible conclusion flowing from the evidence adduced in the said enquiry established the misconduct alleged, the Tribunal had no jurisdiction to sit in its judgment finding the misconduct as an appellate authority unless the Tribunal felt that interference was necessary in the event, that the finding arrived at the enquiry was perverse or the management was guilty of victimisation and unfair labour practice. This view which was taken in the Indian Iron and Steel Company's case reported in 1958 (1) LLJ—AIR 1958 SC 130 have been noticed by the Hon'ble Supreme Court in case of Workmen of Firestone Tire and Rubber Company vs. management. 1973 (1) ILJ 278.

In front, the conduct of disciplinary proceeding and punishment imposed therein were all considered to be managerial function with which the Tribunal had no power to interfere, unless the finding was perverse or the punishment was harsh so as to leave an inference of victimisation or unfair labour practice. This position of law has been changed now by introduction of Section 11-A. The Tribunal is now clothed with the power of re-appraisal of evidence relied on by the employer established the misconduct alleged against the workman. Accordingly, what was originally a plausible conclusion that could be done by the employer from the evidence, is now comes to obtain the satisfaction of the Tribunal on the finding of misconduct. Accordingly, that limitation imposed earlier by Indian Iron and Steel Company's case (supra) about the power of the Tribunal, has been taken away allowing the Tribunal not only to consider if the finding of misconduct was correct but also to defer from the finding. In other words, what was earlier the real of satisfaction of the employer has ceased to be so and the decision rests on the satisfaction of the Tribunal. A reference may be made to the Firestones case in which this view has also been adopted.

17. As far as the misconduct of these 2 persons dismissed namely Maheswar Jha and Mrinal Chowdhury are concerned, there is no dearth of materials led before the Enquiry Officer in support of the charge. The consistency of evidence of the management witnesses particularly that of Shri S. N. Ghosh the Deputy General Manager (P and MS), MW-1 in whose chamber the whole incident occurred, the evidence of MW-3 the Assistant Chief Officer, Discipline and Industrial Relations who was alleged to have been manhandled by Maheswar Jha and Mrinal Chowdhury, evidence of Shri Nani Gopal Sengupta, Assistant General Manager (P and MS) who was also examined as MW were consistent in their evidence and nothing was taken out from time in cross-examination showing that any part of their statement was wrong. The occurrence, the disorderly behaviour and misconduct of these workmen in association with many other employees numbering about 70 to 80 are also stated by MW-2 and MW-4. The materials are also available that these 3 persons could not have gone to the 5th floor without the permission which is exclusively meant for the executives of the Bank and even though several persons were examined on behalf of the workmen, they brought no evidence on the record if such a situation occurred because of provocation from the side of the management. No evidence was also led from their side to suggest that no such occurrence happened or any part of this did not happen. All the workmen's evidence was that they wanted a negotiation in respect of one workman Indranil Mazumder but that had nothing to do with these disorderly conduct and manhandling of the officers as no law provides that the workman in order to mitigate their grievance can resort to violence or abuse the Officers and create indiscipline in the office to the extent it happened on that day. The language used by the 3 workman against the superior officers cannot be said to be ordinary abusive language but are filthy, obscene and unbecoming of the employees of the Bank to be used against their officers. I therefore find that the finding of the Enquiry Officer properly placed reliance on those evidence in coming to the finding of guilty against all the 3 persons in respect of the alleged misconduct. Therefore, I do not want to defer from the finding of the Enquiry Officer.

18. The Enquiry Officer considered the allegations of the charges in respect of the 3 workmen and in so doing made 5 issues. In Issue No. 1, he was considering if Maheswar Jha, Mrinal Chowdhury and Sreedam Mondal had committed riotous/disorderly indecent behaviour in the premise of the Bank on 9-2-1983. Discussing this Issue No. 1, he had

applied his mind to Ext. ME-3 a report given by the D.G.M. (P and MS) Shri S. N. Ghosh in whose chamber and in whose presence the whole thing occurred. The said report contains the names of these three delinquents, specifically mentioning that Maheswar Jha, Mrinal Chowdhury and Sreedam Mondal were highly riotous, disorderly and behaved indecently and took most active and leading role. The report also revealed that D.G.M. himself requested the General Secretary of the U.B.I.S.K.S. on that morning to call on him at 12 O'clock to negotiate a settlement in respect of Shri Indranil Mazumder, an officer of the Coke Oven Branch, who had agreed for the same. But then, ignoring the same, they resorted to violence and created the situation as already stated. He had stated in his report that Maheswar Jha was most abusive and used the language :

"BOHIN CHOD, MATHER CHOD, BICHI KETE NEBO, D. N. GHOSHER SHALA. TOMAN PONDE BASH. TOMAI TULE PHELE DEBO, SAURER BACHHA, KHANKIR CHELA....."

He also mentioned that the three delinquents used vulgar obscenities. They also threatened that unless Shri Nani Gopal Sengupta did not come to his chamber they would go and physically bring him and a section of the mob left his chamber to go to Dr. Ghosal's chamber where from he heard tremendous noise and found that Shri Anjan Chatterjee was being manhandled and abused by Maheswar Jha and Mrinal Chowdhury whom he could recognise. Afterwards Shri Chatterjee was led towards his room where highly derogatory language were used as follows :

"PIMP, A DALAL OF U.B.I.E.A., SHOULD WE SUPPLY WOMEN TO YOU" SHALA, AT-BURCH."

This filthy languages were hurled by Sreedam Mondal and addressed to A.G.M. At that time the mob pushed and rocked his chair from behind and number of persons stood on the table in front of sofa hurling abusive language, when a basket tray was thrown at A.G.M. which hits him on his chest.

19. MW-1 Shri S. N. Ghosh, D.G.M. (P & MS) on his examination corroborated the statements made in his report and stated Maheswar Jha was conspicuous by continuous flow of the choicest highly abusive languages as quoted by him in his report Ext. M-3 and was shaking his fist threatening from time to time and made valgure gesture. He said that Shri Sengupta was led to his room and Sreedam Mondal who was standing next to Shri Sengupta, used indecent language which was also quoted in his report. This witness stated that Shri Anjan Chatterjee was manhandled by Maheswar Jha and Mrinal Chowdhury. He said that it was an act of hooliganism.

MW-2 said when he went to the 5th floor he found the chamber of the D.G.M. absolutely jam-packed and the persons assembled there were shouting slogans using filthy language. He saw that Shri Maheswar Jha caught the hand of Anjan Chatterjee and tried to force Shri Chatterjee out from the room. He also saw Shri Mrinal Chowdhury was present and standing close to Maheswar Jha and gave a blow to Shri Chatterjee. He found in Dr. Ghosal's Chamber, that Shri Sengupta was lying on the floor and was severing and telling the mob "TOMRA AMAKE NIAY JETE PARBE NA. D.G.M. NO BALLE AMI JAB NA. TOMRA AMAR DEAD BODY NIAY JETE PARO". He also found that the leg of one chair was broken and he found that the three delinquents and others were present in the chamber of Dr. Ghosal. He stated that he went to the 5th floor and found the unlawful assemble of 50 to 60 persons in the chamber of D.G.M. (P & MS) and thumping of table and wooden panel. There was great noise and shouting and chaotic condition prevailed. He heard some one saying "Major Ghoshke Bar Kore Fele De". Maheswar Jha had caught hold of his right hand and hold his hand in order to drag him out from the room. He also saw Maheswar Jha giving blows and Mrinal Chowdhury was standing at Maheswar's back simultaneously giving blows to Shri Chatterjee and Shri Chatterjee was flabbergasted as he was manhandled, assaulted and beaten up and he left the chamber. He also stated that he heard Shri Nani Gopal Sengupta having said "ORA AMAKE CHAIR THEKE MATTE FELE DIECHE" and Shri Chatterjee noticed that one of the legs of the chair was broken and Shri Sengupta was pele.

nervous and crumbling. He said that Maheswar, Mrinal and some other people were leading them. He stated in his cross-examination that he remembered the incident of 9-2-93 in details as he was personally manhandled and assaulted. He stated that there was complete violence, disruption of normal function and the people gathered illegally at the place of occurrence leaving their place of duty.

Udit Sarkar, MW-4 also corroborated the chaotic and disorderly situation that prevailed in the 5th floor. He also saw Maheswar, Mrinal and Sreedam coming out of the chamber of D.G.M. (P&MS) and stormed into the chamber of D.G.M. (Coordination-II) which is contiguous to D.G.M. (P&MS). He also stated that he found Shri Sengupta trumbling sitting on the chair.

The evidence of MW-5 Dr. S. N. Ghosal, another D.G.M. also corroborates the statements made by other witnesses.

20. Coming to the evidence of the workman, as I have already stated, the evidence of the defence witnesses did not lead any evidence to show that any of these 3 concerned workmen had not misconducted in the way as alleged or their action did not constituted any misconduct. In the alternative, if the entire allegation was false. They also could not justify why they could violate the general circular of the D.G.M. (P&MS) prohibiting entry to the 5th floor, except on bank's official business and that too, without any permission as the entire floor was meant for the executives' postings.

21. I therefore have no hesitation to say that the finding of the charges against these 3 workmen on this issue by the Enquiry Officer was justified. I am satisfied that the finding of misconduct, had been proved.

22. The other issues are of little significance. Issue No. 2, was if Maheswar Jha, Mrinal Chowdhury and Sreedam Mondal were guilty of the charges of willful insubordination or disobedience of the lawful order of the management. Virtually, insubordination of these 3 persons and disobedience of the lawful order in getting into the 5th floor had been established by evidence before the Enquiry Officer who was also justified in its finding that the charges as per Issue No. 2 had been proved against these three persons.

Issue No. 3, is it the delinquents Maheswar Jha, Mrinal Chowdhury and Sreedam Mondal committed any act prejudicial to the interest of the Bank. Since on the evidence already stated, the Enquiry Officer came to hold the actions of these 3 workmen were contrary to their duties and obligation as employees as such were subversive of discipline. The management has led evidence through their witnesses that there was total chaos when the incident took place in the 5th floor. Their making of indecent lecture, assaulting, shouting filthy slogans, forcing entry into the chamber of the superior officers prohibiting superiors to carry out their normal work disorderly acts which are prejudicial to the interest of the Bank were based on proved facts. On this issue the finding was against the three workmen concerned.

The Issue No. 4 was that if these 3 workmen were guilty of neglect of work. Maheswar Jha was a Driver-cum-Peon attached to the Old Court House Street Branch. Mrinal was a relieving Sub-Staff at the Head Office and was attached to the Personnel Department at the 8th floor. Sreedam was a Daftary in the Policy Information and Monitoring Department. They had no business to be at 5th floor and to be there leaving their work, amounted to negligence of work which was the finding given by the Enquiry Officer against all the three workmen and was found rightly.

The last issue is that whether the delinquents were guilty of the charge of attempting to cause damage to the property of the Bank. This issue however was not proved against any of these workmen.

23. In conclusion, therefore, the finding of the Enquiry Officer was that the three delinquents were found guilty of :

- (a) Riotous/disorderly/indecent behaviour on the premises of the bank.
- (b) Willful insubordination disobedience of any lawful and reasonable orders of the management.
- (c) Committed an act prejudicial to the interest of the

(d) Failing to show proper consideration, courtesy etc. towards the officer, unseemly/unsatisfactory behaviour while on duty.

(e) Neglect of work.

On the basis of which the punishment had been imposed, by the disciplinary/punishing authority.

24. I, accordingly, hold that there is absolutely no good reason for interfering with the punishment of Sreedam Mondal since I find that there was material which justified the finding of misconduct against him since Section 11-A of the Act was not attracted and no ground was made out to show that the enquiry was perverse or was guilty of victimisation or unfair labour practice as per the decision of the Hon'ble Supreme Court in Indian Iron and Steel Company's case reported in AIR 1958 SC 130, there is no basis for me to interfere with the quantum of punishment. The punishment accordingly stands having been passed justifiably.

25. Coming to the case of other two persons namely, Maheswar Jha and Mrinal Chowdhury, that was a case to which Section 11-A of the Industrial Disputes Act, 1947 is applicable. I have already quoted the provisions of Section 11-A earlier which authorises the Tribunal to award lesser punishment in lieu of discharge or dismissal, if the circumstances of the case so required.

26. In the present case, the allegation against these three workmen Maheswar Jha, Mrinal Chowdhury and Sreedam Mondal are virtually the same to the extent that these three workmen were leading a unruly mob to create hooliganism in the 5th floor meant for the executives. Each of them used most abusive and filthy language against the superior officers and were directing the people to physically lift an officer from his seats and to carry him to the D.G.M.'s room and showed little regard for the discipline and decorum of the office. The only distinguishing feature Sreedam and other two is that while Sreedam Mondal had no allegation of committing any assault on any of the officers. Mrinal and Maheswar resorted to manhandling and assaulting of the officers and of the two, Maheswar had a greater part in the manhandling than Mrinal, as already detailed by me in the earlier paragraphs. The management has been very kind in imposing the punishment of stoppage/withdrawal of the special allowance in respect of Sreedam Mondal for a period of 6 years only, while most of the allegations of creating extreme indiscipline in the office was found against him except resorting to physical violence. By that standard of gracefulness of the management, the imposition of the order of dismissal with immediate effect, on the other two was not called for. If the management imposed such harsh punishment e.g. dismissal on these two persons Mrinal Chowdhury and Maheswar Jha, this would lead to an inference that these two persons are victimised because they assaulted to one of the officers. It is not disputed that 'dismissal' is the most harsh punishment that can be imposed on a workman and in such an event not only the workman is punished thereby but the entire family suffers who are dependant on the workman. Therefore, great caution must be taken before the management should take this last resort. While I hold that this assault is a factor which weighs heavily against the workman in the consideration of a lesser punishment, still keeping in view the grace shown by the management to one of the three workmen who had been found guilty by the Enquiry Officer on all counts as these two workmen also, they should not be given this harsh punishment of dismissal which would be disproportionate to the gravity of the offence. For the ends of justice, therefore I award a lesser punishment in lieu of dismissal and direct that Shri Mrinal Chowdhury be reinstated to the service from the date this award comes into operation but without full back wages and only be entitled to two years back wages, whereas Shri Maheswar Jha be reinstated in service from the date of the enforcement of the Award without any full back wages but only with back wages for a single year as his gravity of the misconduct on his part is more than that of Mrinal Chowdhury. As a result, these two workmen only should suffer for the loss of wages and not the loss of service which no doubt give them enough sense to conduct themselves properly in future in their postings.

While I hold that the punishment of termination of service is disproportionately heavy in relation to the miscon-

duct alleged, I exercise my discretion under Section 11-A of the I.D. Act to reduce this sentence, relying on the decision of the Hon'ble Supreme Court in the Hindustan Machine Tools case reported in 1983 (II) LLJ 386. It is fundamental principle of justice that punishment should be commensurate with the guilty "Judex Acquitatem Semper Spectare Doubt" which means that the Judge should have equity before his eyes, need be kept in view while imparting social justice in industrial Adjudication.

27. Coming to the case of Shri Amit Roy Chowdhury a Clerk of the Bank, he, was chargesheeted by order dated 10 March 1983 of the Chief Officer, Head Office of the Bank on the following counts :

- (a) Riotous|disorderly|indecent behaviour on the premises of the Bank.
- (b) Wilful insubordination|disobedience of lawful and reasonable orders of the management.
- (c) Committed an act prejudicial to the interest of the Bank.
- (d) Failing to show proper consideration, courtsey etc. towards the officers behaviour while on duty.
- (e) Neglect of work.

to which the workmen replied denying the allegations and the management having not been satisfied with the explanation proceeded to hold a departmental proceeding against him in which Shri P. K. Banerjee the then Regional Manager of the Bank posted at Regional Office, Guwahati was appointed as the Enquiry Officer.

29. The short facts on the basis of which the workman was chargesheeted are as follows :

On 7-2-1983 at about 9.40 A.M. Shri B. B. Mahapatra, Assistant General Manager (Planning & Development) went to the Old Court House Street Branch along with Shri Shyamalendu Neogy, Assistant Chief Officer to collect certain informations regarding attendance of the Award Staff of the office. At about 10-20 A.M. this workman Shri Roy Chowdhury along with 15 to 20 employees of the said branch assembled around the table of Ashim Gupta an Accountant of the Bank and demanded that Shri Mahapatra and Shri Neogy before getting the information regarding attendance of the employees of the Branch, should look into the grievances of the employees. It is the case of the management that the work of this delinquent starts at 12 noon. The grievance of the workmen was that the employees were not getting proper seats for a considerable period but the branch management paid no attention to such grievance of the employees. The concerned workman was explained about the

position, after which he left but only to come again at 11.45 A.M. to demand from Shri Gupta the Accountant (Advance) why the note slips were not made available to the Cashier for which they were not to difficulties. The workman was having with him about 15 to 20 employees. They surrounded Shri Mahapatra, Shri Neogy and Shri Gupta and gharaoed them. While they were insisting on their demands that their grievance must be heard, the workmen were shouting at the top of the voice along with the mob which prevented Shri Mahapatra and Shri Neogy not to proceed with the work in collecting the information. It is the case of the management that they were shouting "Hallah Hatao Bank Banchao." It was alleged that in this incident, the record of attendance and other available documents which were in the possession of Shri Neogy were snatched away by the crowd and inspite of request to these workman to go back to his duty, he continued to behave in the aforesaid fashion and ultimately forged Shri Mahapatra and Shri Neogy to leave the branch without doing their duties.

30. By order dated 27 August, 1990 the then Presiding Officer of this Tribunal Mr. Justice S. Chakraborty had held that the enquiry was valid also in respect of these workman and left the matter to be considered on merits latter.

31. In the present proceeding the Enquiry Officer submitted his report and Shri P. K. Banerjee the Enquiry Officer had been examined by the management as a witness in this case. Shri Banerjee returned his finding against this workman holding that Shri Amit Roy Chowdhury was present in the crowd which raised slogan leading to dislocation of the work and creating disorderly scene and he threw humbles of notes on the table of Shri Gupta, thus behaving in an unseemingly and indecent manner and failed to show proper consideration towards the officers.

Other charges have not been established beyond doubt.

32. The disciplinary authority vide their order dated 6 April, 1984 addressed to the workman imposed the punishment of "Stoppage of increment for a period of 6 months with immediate effect."

33. As I have already indicated the procedure adopted in the enquiry had been considered by this Tribunal and the Tribunal had come to the finding that there was no violation of principle of natural justice or any other rules that were required to be followed in the said enquiry and the enquiry was valid. The only question now to be considered by this Tribunal is whether this

punishment imposed can be interfered with at all.

34. The contention of the management is that since Section 11-A has no application to the present case, this being not a case of dismissal or discharge, the jurisdiction of the Tribunal to interfere with the punishment will not be available in the present case, unless the order itself is perverse calling for interference by this Tribunal.

35. I may repeat my views already indicated in the case of the two dismissed employees namely Maheswar Jha and Mrinal Chowdhury as well as Sreedam Mondal whose special allowance was withdrawn for a period of 6 years and state that the management is justified in stating that Section 11-A is not applicable to the present case, this being not a case of discharge or dismissal. Nevertheless the Tribunal has jurisdiction to interfere with the finding of misconduct recorded in the domestic enquiry provided one of the four grounds exists as held in Indian Iron & Steel Company's case (supra) namely if (1) want of good faith; (2) that it was a victimisation or unfair labour practice; (3) that the management was guilty of basic error or violation of principle of natural justice and (4) on the materials on record the finding was baseless or perverse.

36. I carefully went through the enquiry report in respect of this workman marked Ext. M-15 in this Tribunal. While the enquiry Officer held that other charges had not been established against this workman beyond doubt, held that his behaviour was unseemingly an indecent and failed to show proper consideration towards the officers. He gave no reason for it and only stated that Shri Roy Chowdhury was a member of the crowd which raised slogans. The slogan as quoted above obviously cannot be called indecent. The finding does not say which of the 5 charges mentioned in the chargesheet had been proved.

37. I accordingly find that the finding of the Enquiry Officer is not based on any materials. Accordingly the punishment that was imposed by the disciplinary authority on the basis of the enquiry report cannot be said to be justified.

38. In the result, the workman is entitled to his normal pay and no stoppage of increment need be made from his salary as per the order of the disciplinary authority.

39. Coming next to the case of Rabindra Nath Karmakar a Head Cashier of the Sepoi Bazar Branch at Midnapore of the Bank, he was issued with a chargesheet by the Bank vide their letter

No. PD/RR/DIR/11181 dated 23/28-12-1983 which reads as follows:

- (i) (a) That Sri Rabindra Nath Karmakar failed and neglected to perform his duties in accordance with the norms and procedures of the bank in remitting cash to C.C.R.C.
- (b) That the branch had to hold cash in excess beyond the insurance limit of the branch, and thereby had to take unnecessary risk of holding excess cash.
- (c) That he was instructed vide office order bearing No. 49/83 dated 22-6-1983 to discharge his duties as per the norms of the Bank but he failed and neglected to carry out the instructions of the Agent and thereby disobeyed the lawful and reasonable order of his superiors.
- (ii) (a) That he is in the habit of creating disturbances in the office premises during office hours thereby obstructing the normal function of the branch and including usual and normal customer services.
- (b) That on 27-5-81 he had misbehaved with Ms. B. Kirtania an employee of the Sepaibazar Branch of the bank by using abusive language to her within the premises of the bank while on duty.
- (iii) That he obtained a loan of Rs. 5000/- from the bank on 27-7-81 by giving a false declaration of his sister's marriage for his personal gain and purpose.

40. The allegation against Shri Karmakar was that he was in the habit of creating disturbance in the office premises during the office hours and thereby obstructing the normal functioning of the branch. On 27 May 1981 he insulted one Ms. Kirtania a Clerk of the said branch and used abusive language against her inside the premises of the bank while on duty. He had obtained a loan of Rs. 5000/- from the Bank on 27 July, 1981 by making a false statement to the Bank that it was for his sister's marriage, though it was for his personal gain and purpose. Contrary to his duty as the Head Cashier of the said branch, he did not remit cash to the Central Cash Remittance Centre, as a consequence of this the Bank had suffered financial loss. He had failed to carry out instruction of the Agent under office order bearing No. 49/83 dated 23-6-1983 and also disobeyed lawful and reasonable order of the superior.

41. Shri M. K. Mukherjee an officer of the Bank was appointed as the Enquiry Officer, who

submitted his report to the disciplinary authority, which is now exhibited in this Tribunal as Ext. M-21. This shows that the Enquiry Officer exonerated Shri Karmakar on the first charge. Regarding the second charge namely misbehaviour with Ms. Kirtania a lady clerk of the branch, the Enquiry Officer found that it was amply ground that Shri Karmakar had misbehaved with Ms. Kirtania on 27-5-1981 during the office hours at the branch premises, holding further that Shri Karmakar failed to show proper consideration, courtesy towards employees of the Bank, and his unseemingly or unsatisfactory behaviour while on duty had been proved. Coming to the third and last charge concerning obtaining of Rs. 5000/- from the Bank as a loan on 27 July 1981, Shri Karmakar had given a false declaration of his sister's marriage for obtaining the loan while it was for his personal gain and purpose, for which the Enquiry Officer found him guilty of the said charge.

42. The disciplinary authority having accepted the finding of the Enquiry Officer and after the personal hearing given to the workman, by his order dated 16 June, 1984 inflicted punishment of stoppage of one annual increment with cumulative effect and an appeal against that order to the appellate authority was also rejected.

43. A gain applying the same principle as was held in Indian Iron and Steel Company's case (supra), I find this is a case where none of the four grounds mentioned earlier had been violated. The Enquiry Officer has considered the evidence held before him and returned his findings based on materials which the enquiry report itself shows and also corroborated from the evidence recorded in the disciplinary proceeding. There is no violation of the principle of natural justice or any basic error of procedure as already held by this Tribunal by its order dated 27 August, 1990. I, therefore, do not find any ground to hold that the punishment imposed, needs any interference.

44. In the result, the action of the management against this workman is justified.

45. Coming to the case of Ashoke Kumar Goel as reveals from the pleadings and the materials on record, this workman was working as a Clerk at Timarpur Branch, New Delhi. While he was so working, certain posts of Head Cashier fell vacant due to the posting of special assistant in different branches in Northern India Region. Two Head Cashiers gave their option for their posting in two branches and the Regional Manager, Northern India issued posting orders to these two Head Cashiers which was against their respective options. A representation was made to the Regional Manager stating that the Head Cashiers were not to be allowed options for their posting in any of the branches as per the circular of the Head Office and the Regional

Manager intended to cancel the earlier posting order. On 10-2-1983, however, the leaders of the union who sponsored the representation earlier made an appointment to the Regional Manager of Northern India Region for discussion which was fixed at 10.30 A.M. of the same day.

The present workman alongwith Shri R. D. Denwar and Shri B. Chattopadhyaya called on the Regional Manager for such discussion and letter two others namely Shri Gandhi and Shri Chawalta joined them and it was decided that Regional Manager would pass an order cancelling earlier posting orders issued to the two Head Cashiers. When this discussion was going on, the representative of the U.B.I.E.A., a rival union, started mobilising their members and assembled outside the chamber of the Regional Manager and forced the Steno who was already given the paper to type out, not to type the cancellation orders. While demonstration was going on, the concerned workman Shri Goel without appreciating the difficulty faced by the Regional Manager in issuing the cancellation order got very agitated and insisted that the Regional Manager should issue the cancellation order and started abusing the Regional Manager using abusive language such as "Aj Joote Marange" and found to be in fact opening his shoes, which was the basis for issuing the chargesheet dated 10 February, 1983 alleging that the workman was indulging in

- (1) Riotious/disorderly/indecent behaviour inside the premises of the Bank.
- (2) Disobedience of unlawful and reasonable orders of the management.
- (3) Failing to show proper consideration/courtesy/unseemly unsatisfactory behaviour while on duty.
- (4) Doing acts prejudicial to the interest of the Bank.

Since the reply of the workman was not satisfactory, a disciplinary proceeding started and ultimately the Enquiry report having gone against the workman, the disciplinary authority passed the order dated 7th June, 1984 imposing the punishment of stoppage of three annual increments with cumulative effect having the postponment of future increments.

46. Mr. Justice S. Chakraborty the then Presiding Officer by his order dated 27th August, 1990 had already given his finding that the enquiry against this workman Shri Ashoke Kumar Goel was invalid. The then Presiding Officer come to hold that no opportunity was afforded to the delinquent workman to cross-examine the management witness Shri S. C. Deb on the basis of his preliminary report as the preliminary report was not made available at the enquiry inspite of delinquent's prayer before the Enquiry Officer. The then

Presiding Officer while holding that the enquiry was not held in accordance with the principle of natural justice held that the domestic enquiry was invalid, and allowed the management's prayer to lead fresh evidence in support of the charge.

47. Management however examined one witness on 16-1-1992 by name Rabati Ranjan Roy. Though the management exhibited one letter purported to be communication of the fact of incident to the Head Office, the preliminary report itself has not been filed even before this Tribunal, nor the witness Shri R. R. Roy said that the Ext. M-13 was that preliminary report. That letter is of no consequence now because Shri S. C. Deb, the then Regional Manager whom the workmen wanted to examine on the said preliminary report is already dead as has been stated by the deponent Shri Roy in his cross-examination. Management has failed to justify their action of imposing the punishment in properly conducted enquiry. As such, this punishment cannot stand and cannot be said to be justified.

48. In the result, I hold that the action of the management in passing the order of punishment of stoppage of three annual increment with cumulative effect having the effect of postponement of future increment against this workman Shri Ashoke Kumar Goel is not justified and he is entitled to his salary notwithstanding this illegal order of punishment of stopping the increments.

49. Coming to the case of Sashi Kant Chowdhury, Indrajit Prosad, Krishna Kumar, Pradip Chakraborty, Rajendra Ojha and Sachin Roy, it is necessary to state the facts which led to the disciplinary proceeding against these employees.

On 25-7-1981 at about 11-12 A.M. while Shri M.S. Banerjee the Accountant of the Giridih Branch of the Bank was having a discussion with the then Joint Accountant, these workmen namely Shri Pradip Chakraborty a Cash Clerk, Sashi Kant Chowdhury a clerk, Indrajit Prosad a sub-staff, Rajendra Ojha a Sub-staff, Krishna Kumar a Sub-Staff and Sachin Roy, Armed Guard of the Branch entered into the Agent's chamber and intervened with the work of the Accountant and tried to get an office order by the Accountant forcibly. In doing so, they had indecent and discourteous behaviour. Since the Accountant did not pass that that order, these employees caught hold of his hands and applied physical force to write the office order against his will. When the Accountant tried to resist, these workmen pushed and pulled the Accountant and in that process the Accountant was manhandled by them. When the Accountant wanted to contact the Regional Office at Patna, these workmen used filthy language against him and the telephone was snatched away from his hand. The Accountant was not permitted to leave the Agent's chamber and when he managed to come out from the Agent's chamber, was followed by the workmen

who were running after him hurling threatening words towards him. When the Accountant requested Shri Ram Chandra Prosad an officer of the Branch to go to the Police Station and to lodge a F.I.R., these workmen asked the Armed Guard Shri Sachin Roy to close the gate preventing Shri Prosad to go out, which Roy followed. On the basis of these facts, the Agent of the Giridih Branch issued the chargesheets to these workmen S/Shri Pradip Chakraborty, Sashi Kant Chowdhury, Indrajit Prosad, Krishna Kumar who were charged of having committed riotous and disorderly work and discourteous and unseemingly behaviour towards superior officer, while Shri Ojha in addition to the above charges was charged that he instigated other chargesheeted workmen in indulging riotous and disorderly acts and was further charged for having committed an act which lowered down the image of the bank because of the commission of these nuisance. Shri Sachin Roy Armed Guard was charged as he closed the bank's gate without any permission of the supervisor during the office hours. Separate chargesheets were issued to the workmen. While Krishna Kumar was chargesheeted by letter dated 6/10 August, 1981, all others were chargesheeted on 4/6 August, 1981.

50. After the explanation had been submitted by these workmen, the management having not been satisfied with their replies, decided to proceed with the disciplinary proceeding. Mr. Udit Shankar Mukherjee an officer of the Personnel Department, Head Office was appointed as the Enquiry Officer in the domestic enquiry which commenced on 6-1-83, followed by several other dates.

51. The Enquiry Officer came to hold in his report that on 25 July, 1981 during the working hours Shri Pradip Chakraborty, Cash Clerk, Shri Sashi Kant Chowdhury, Clerk, Shri Indrajit Prosad, Sub-staff, Shri Krishna Kumar, Sub-staff had resorted to the riotous and disorderly act when the Accountant of the Branch was about to issue an order of special assistant's power.

The Enquiry Officer also held that the management was successfully in proving that Shri Rajendra Ojha, Sub-staff not only indulged in riotous and disorderly act on the same date in Giridih Branch but instigated other chargesheeted workmen to commit such riotous act in presence of the other members of the staff as well as before the customers of the Bank. Thereby, lowering the image of the Bank in their estimation. His further finding was that the management was successful in proving the case against Shri Sachin Roy the Armed Guard that on 25 July 1981 he had closed the Bank's gate not at the instruction of the superior but at the instruction of Shri Rajendra Ojha, one of the chargesheeted employee.

52. The disciplinary authority issued separate letters dated 6th April, 1984 addressed to all the chargesheeted workmen concurring with the finding of the Enquiry Officer and according to the

management considering all the circumstances of the case and the gravity of the misconduct and past records decided to impose the following punishment :

Name of the workmen Punishment Imposed

1. Pradip Chakraborty.—“Stoppage of 3 (three) annual increment with cumulative effect with the effect of postponing your future increments.”
2. Sashi Kant Chowdhury.—“Stoppage of 5 (five) annual increment with cumulative effect with the effect of postponing your future increments”.
3. Indrajit Prasad.—“Stoppage of 3 (three) annual increment with cumulative effect with the effect of postponing your future increments”.
4. Rajendra Ojha.—“Stoppage of 5 (five) annual increment with cumulative effect with the effect of postponing your future increments”.
5. Krishna Kumar.—“Stoppage of 3 (three) annual increment with cumulative effect with the effect of postponing your future increments”.
6. Sachin Roy.—“Stoppage of 1 (one) annual increment with cumulative effect with the effect of postponing your future increments”.

53. Of these workmen, the cases of Rajendra Ojha and Sachin Roy is no more in dispute because of the order passed in this Tribunal on 21-11-1994. On that day a petition was filed on behalf of the union stating that there had been a settlement between the management and the union in respect of Rajendra Ojha and Sachin Roy and there is no further grievance left to be canvassed in this reference case. This was made in present of Shri R. N. Mazumder, learned counsel for the management. This petition is carrying the signature of the General Secretary of the union as well as the learned counsel for the workmen who wanted that a no dispute award may be passed in respect of these 2 workmen.

In view of that order, I accordingly pass a “No Dispute” Award in respect of Rajendra Ojha and Sachin Roy.

54. Mr. Justice S. Chakraborty the then Presiding Officer of this Tribunal by his order dated 27 August, 1990 held that the enquiries in respect of all these workmen was valid and no principle of natural justice has been violated, nor any wrong procedure had been adopted in conducting the enquiry. In such view of the matter the only ground on which the Tribunal can interfere with the punishment or with the finding of Enquiry Officer, are governed by the principle laid down

by the Hon'ble Supreme Court in Indian Iron and Steel Company's case (supra).

55. The enquiry report is marked Ext. M-29 in this Tribunal. The entire proceeding of the enquiry are also placed before this Tribunal. I find from the records of the disciplinary proceeding that the management had examined three witnesses Shri M. C. Banerjee, Accountant and two Clerks by name Pradyut Kumar Gupta and K. P. Sinha, while from the side of the charge-sheeted workmen Shri Jagadish Roy an officer of the Bank and one Ajit Kumar Singha were produced as defence witnesses.

56. Shri Banerjee the Accountant who had submitted a report after the occurrence was examined before the Enquiry Officer who explained how his decision to issue an official order for a temporary special assistant's power was resisted by the sole reason of the commotion without any reason and since both the unions were adamant on their stand, he wanted to contact the Regional Manager at the Regional Office. While he was contacting, the telephone was snatched away from his hand by Shri Indrajit Prasad and others also threatened him by behaving with him wrongfully. Rajendra Ojha and Sashi Kant Chowdhury caught hold of his hands and applied their physical force for writing the office order in their favour and when he did not agree with them, they resisted physically from going out of the chamber. Shri Banerjee wanted to come out to drink water but Shri Ojha and Shri Indrajit Prasad and Shri Sashi Kant Chowdhury simultaneously pushed him at the back and did not allow him to come out. But when he ultimately came out, Rajendra Ojha and others ran after him and when Shri Banerjee the Accountant requested Shri Ram Chandra Prasad, Joint Accountant to inform to the Police Station personally, he could not go out because Rajendra Ojha asked Sachin Roy, Armed Guard to close the gate, which was closed by Shri Roy. This disturbed the working of the Bank for about an hour. Shri Banerjee had been examined and cross-examined in details but he was un-shaken in the cross-examination.

According to the other two witnesses for the management, Mr. Gupta and Mr. Sinha the Clerks, they found Shri Rajendra Ojha with the office order register standing at the right side of the chair where Shri Banerjee was seated in the Agent's room. Shri Pradip Chakraborty was standing just to his right while Shri Krishna Kumar and Shri Indrajit Prasad were standing at the extreme right of the table. They have also stated to have seen that Rajendra Ojha and Indrajit Prasad putting dot pen on Shri Banerjee and forcing him to write the office order. They also found Shri Krishna Kumar snatching away the telephone and Shri Indrajit Prasad showing his finger to the Accountant.

57. The defence witness Jagadish Roy an Officer stated that Shri Ojha had requested Shri Banerjee humbly to issue the order but in cross-examination he stated that he was on leave on that date. Mr. Singha who was examined on behalf of the workmen corroborated the evidence of Shri Roy but in cross-examination he stated that he was in the Agent's chamber for about 4 to 5 minutes whereas the Accountant remained in the Agent's chamber for about 15 to 20 minutes.

58. This Tribunal does not sit in appeal in re-assessing the evidence led before the Enquiry Officer in the disciplinary proceeding. It can only interfere, as already stated, if one of the four elements were satisfied namely, want of good faith, fictimisation or unfair labour practice, commission of basic error or violation of principle of natural justice or the finding was baseless or perverse. I do not find any of these grounds is present to justify the interference with the finding of the misconduct in the domestic enquiry and that the punishment that was accorded on the basis of that which is also not disproportionate to imply victimisation.

59. I, accordingly hold that the action of the management in according these punishment against Shri Sashi Kant Chowdhury, Shri Indrajit Prasad, Shri Pradip Chakraborty and Shri Krishna Kumar are justified.

60. Coming to the last workman Shri Tapas Kumar Banerjee, the narration of the facts leading to the chargesheeting of this workman is necessary.

The workman at the material time was an employee of the Bank at its Chinsurah Branch. It was alleged that on 30-12-1982 at about 10.30 A.M. he alongwith other members of the staff who assembled unlawfully in the Agent's chamber and demanded 12 hours overtime wages for having worked for that period over and above the schedule 48 hours of work. Since the Agent expressed his inability to sanction overtime beyond 48 hours without concurrence of the Head Office, this workman alongwith others behaved in riotious|disorderly and indecent manner and shouted at the top of voice creating pandemonium in the branch premises and have hurled abusive language such as "Shoorer Bachha". He did not attend the customers of the Bank and insisted the customers to pressurised the Agent. There was complete stoppage of work in the branch for his such unlawful assembly alongwith others and though was advised to go back to work, he refused to do so. At about 12 noon on that date the situation turned worse when he and two others called some outsiders inside the branch premises. They were led by him into the branch for hackling the Agent. That apart, Shri Banerjee and certain other members of the staff surrounded the Agent

demanded payment of overtime for 12 hours extra. Shri Banerjee along with others incited the outsiders who leaned on the body of the Agent and abused with filthy language and thumped the table. The concerned workman alongwith others misbehaved with the Agent which compelled the Agent to come out of his chamber where he was gharaoed. At about 1 P.M. on the said date, the D.D.O. came to the branch on hearing the incident and was also tortured by this workman, forcing ultimately the District Development Officer to sanction 12 hours overtime. Shri Banerjee alongwith others also incited the outsiders who used filthy language against the Agent saying "Chal Shala".

61. On the basis of these facts a letter was issued on 10 March 1983 under the signature of the Chief Officer, Head Office to this workman Shri Tapan Kumar Banerjee on the following charges :

- (i) Riotious, disorderly, indecent behaviour on the premises of the Bank;
- (ii) Abetment|instigation of any disorderly, riotious acts in the premises of the Branch;
- (iii) Complete stoppage of work in the Branch premises;
- (iv) Neglect of work, negligence in performing duties;
- (v) Failing to show proper courtesy towards officer unseemly and unsatisfactory behaviour while on duty;
- (vi) Disobedience of any lawful and reasonable order of the management;
- (vii) Doinfn an act prejudicial to the interest of the Bank.

62. The workman had replied to the said charge denyng the allegation and since the explanation was not satisfactory, the management decided to proceed against him with departmental enquiry and appointed Dr. B. V. Jha, Regional Manager, Calcutta South Region as the Enquiry Officer by its letter dated 5 April 1983.

To start with, this workman alongwith three others namely Tushar Kanti Chakraborty, Ashoke Chatterjee and Shri Jayanta Kumar also charge-sheeted on the said date.

63. In the enquiry report which has been exhibited in this Tribunal Ext. M-10, the Enquiry Officer held that Shri Tapas Kumar Banerjee behave indesently and was responsible for rotious, disorderly acts of the employees and was responsible in enraging the customers against the Bank management. It was further held by him that Shri Banerjee had neglected his work and did not perform his duties and was instrumental in the stoppage of work in the branch premises. It was further held that he had disobeyed lawful and

reasonable verbal orders of the management and his act in commission on that particular date would show that he acted prejudicially against the interest of the Bank.

64. The disciplinary authority by his order dated 16 July, 1984 issued the order of punishment on Shri Banerjee concurring with the finding of the Enquiry Officer by "stoppage of two annual increments with cumulative effect with the effect of postponing the future increments", after giving him an opportunity to be heard in person, if he had anything to say against the proposed punishment.

65. This being a case of withholding of increment, does not come within the purview of Section 11-A of the Act for interfering with the quantum of punishment.

66. The enquiry report is made Ext. M-10 before this Tribunal and the proceedings of the enquiry are also filed before this Tribunal. In the enquiry, the management examined several witnesses which included Shri Jagannath Bhattacharya the Agent of Chinsurah Branch. The other witnesses are Shri Nripen Ganguly, Accountant of the said Branch, Shri Pradip Chatterjee, an officer of the said branch, Arup Kumar Banerjee, District Development Officer Hooghly, Shri Pran Kumar Chatterjee an officer attached to the District Development Officer, Hooghly, Shri Subhas Sen an Officer of the Chinsurah Branch, Shri Biswanath Chatterjee a constituent of the branch and proprietor of M/s. Dayamoie Stores, Shri Sudhir Ghosh a constituent of the Bank and proprietor of Hooghly Filling Station, Shri Arun Mondal a constituent of the Bank and proprietor of M/s. J. M. Chemicals of Chinsurah, Shri Sudhir Roy Chowdhury, Head Cashier of Chinsurah Branch and Shri Partha Banerjee another constituent of the Bank and presented also the chargesheets and their explanations before the Enquiry Officer.

Shri Jagannah Bhattacharya who was examined in the enquiry had stated that Shri Tapas Banerjee was in the frontline of the agitation on that day alongwith Shri N. Seal, D. K. Paul etc. and he had entered the Agent's chamber for such demand at the material time. He also had led some outsiders into the Agent's chamber, surrounded the Agent while pressing the demand. Shri Pradip Chatterjee another witness for the management also corroborated the said facts in the enquiry. He however stated that he was vehemently thumping the table and was trying to catch hold of the arms of the chair.

67. The finding of the Enquiry Officer against these workmen is obviously not without any basis. No materials are led before me to find that this proceeding was not in good faith or due to victimisation or unfair labour practice. The enquiry

was found valid by this Tribunal by order dated 27th August, 1990. I find no reason to interfere with the punishment imposed on the finding arrived at the enquiry.

68. Accordingly, I hold that the management was justified in passing this punishment against this workman Shri Tapas Banerjee.

The reference is answered accordingly.
Dated, Calcutta.

The 27th February, 1997.

K. C. JAGADEB ROY, Presiding Officer

नई दिल्ली, 12 मार्च, 1997

कां० अ० 924 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधकों के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट्ट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-3-97 को प्राप्त हुआ था।

[संख्या एल-12012/158/95-आई.आर.बी. 2]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 12th March, 1997

S.O. 924.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on the 11-3-1997.

[No. L-12012/158-95-IR(B-II)]

, BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL : NEW DELHI

I. D. No. 96/96

In the matter of dispute :

BETWEEN

Shri Nafe Singh,
96, Rajendra Park,
Nangloi,
Delhi-41.

Versus

Deputy General Manager,
Canara Bank,
Marshal House,
Hanuman Road,
Connaught Place,
New Delhi,

APPEARANCES :

None for the Workman.
Shri Ravi Kumar for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/158/95-I.R. (B-2) dated 30-9-96/16.10, has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management of Canara Bank in terminating the services of Shri Nafe Singh, daily wagers by removing his name from the panel of daily wagers is fair and justified? If not, to what relief the workman is entitled?”

2. The workman did not appear inspite of having been called many times. It appears that the workman was not interested in pursuing the dispute further and no dispute award is given in this case leaving the parties to bear their own costs.

6th March, 1997.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 12 मार्च, 1997

का०ग्रा०. 925 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-3-97 को प्राप्त हुआ था।

[संख्या एल-12012/264/90-आई.आर.बी. 2]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 12th March, 1997

S.O. 925.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on the 11-3-1997.

[No. L-12012/264/90-IR(B-II)]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA.: PRESID-
ING OFFICER: CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL: NEW DELHI

I. D. No. 32/91

Shri Bhagwan Singh,
Clerk through
Vice President,
Syndicate Bank Staff Association,
Ram Bhawan,
Tilak Gali,
Pahar Ganj,
New Delhi.

Versus

Assistant General Manager,
Syndicate Bank,
6, Bhagwan Das Road,
Sarojini House,
New Delhi.

APPEARANCES :

Shri R. K. Kadam for the Workman.
Shri Rajesh Mahendru for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/264/90-I.R. (B-2) dated 15-3-91 has referred the following industrial dispute to this Tribunal for adjudication :

“Whether the action of the management of Syndicate Bank in withholding three increments with cumulative effect of Shri Bhagwan Singh Clerk is justified? If not to what relief is the workman entitled?”

2. The workman made statement that he was not interested in continuing the dispute and prayed that no dispute award may be given in this case. In view of the statement of the workman no dispute award is given in this case leaving the parties to bear their own costs.

5th March, 1997.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 13 मार्च, 1997

का०ग्रा०. 926 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड इंडिया इश्यूरेन्स कं० लि० के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-3-97 को प्राप्त हुआ था।

[संख्या एल-17012/171/90-आई.आर.बी. 2]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 13th March, 1997

S.O. 926.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of United India Insurance Co. Ltd. and their workmen, which was received by the Central Government on 12-03-1997.

[No. L-17012/176/90-IR(B-II)]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, DEOKI PALACE ROAD, PANDU NAGAR,

KANPUR

Industrial Dispute No. 94 of 1991

In the matter of dispute :

BETWEEN

Regional Manager,
United India Insurance Co. Ltd.,
Regional Office,
Arif Chambers,
Aliganj,
Lucknow.

AND

R. K. Panday,
Zila Sachiv,
General Insurance Employees Association,
63/3, Mall Road,
Kanpur.

APPEARANCE :

Sri R. K. Tripathi for the management.

Km. Neeta Mathur for the workman.

AWARD

1. Central Government Ministry of Labour, New Delhi vide its Notification No. L-17012/176/90-IR(B-2) dated 24-6-91 has referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of United India Insurance Co. Ltd., in imposing a penalty of reduction of basic pay from Rs. 250 to Rs. 195 on Sh. C. P. Soni w.e.f. the date of receipt of order dt. 12-6-85 upto the date of receipt of order dated 20-9-87 is justified ?

(2) Are the decisions of the disciplinary Authority (Order dt. 12-6-85) and Appellate Authority (30-9-87) declining

to treat the period of suspension as period spent on duty justified and is the workman entitled to any benefits to full pay and allowances for the period of suspension counting of periods of suspension for the purpose of increment, seniority etc. ?

- (3) Is the workman's allegation this his seniority was arbitrarily changed by the management correct ?
- (4) Whether the action of the management in not giving promotion to the workman w.e.f. April 1987 is justified ?
- (5) What relief, if any is the workman entitled to ?

2. The concerned workman Chandra Prakash Coni was posted as Assistant Typist in Branch Office under D.O. No. 3 at Kanpur. He was served with the chargesheet on 20-12-82, the copy of which is Ext. W-20 on record and which runs as follows—

- (1) That whilst posted as Assistant in Kanpur D.O. you tried to cheat the company by making false cattle claim registered in the company vide claim No. 44001/66/0151/81 A/c Sri Ramjan alias Polu.
- (2) That whilst posted as Assistant in Kanpur D.O. you tried to cheat the company by making false cattle claim registered in the company vide claim No. 44001/66/7/0151/81 A/c Shri Beli Ram Soni.
- (3) That whilst posted as Assistant in Kanpur D.O. you tried to mislead the company by making a false verification report in respect of claim No. 44001/66/7/00030/81 A/c Sri Krishna Kumar with dishonest intention.

3. The concerned workman submitted his reply on 17-11-82. It may be mentioned that before initiation of this domestic enquiry the matter was investigated by C.B.I. who had submitted final report in the matter. During the pendency of this investigation, the concerned workman was placed under suspension on 23-2-82. In this way he was already under suspension when this domestic enquiry was initiated against the concerned workman. One V. Jai Prakash was appointed as enquiry officer. Before him A. S. Agarwal and one Dr. R. S. Taxak was examined. Further Ext. M. 1 to M-15 were filed. The defence did not adduce any evidence. On the basis of this enquiry report dated nil was submitted by the enquiry officer which Ext. 50 on record. It was held that charge Nos. 1 and 3 were proved where as charge No. 2 was not proved. On the basis of this report the disciplinary authority had ordered for reduction in rank by way of punishment, appeal was dismissed on 30-9-87. Memorial too was rejected on 22-6-88. Thereafter the instant

reference was got made by the concerned workman through the union.

4. In written statement the concerned workman, inter alia, has alleged the enquiry was not fairly and properly held whereas this fact has been denied by the management in the written statement. Hence a preliminary issue regarding fairness and propriety of domestic enquiry was framed. This tribunal vide finding dated 14-2-96 held that domestic enquiry was not fair and proper. It may be mentioned that during the course of enquiry none of the complainants were examined. Even the surveyor Arun Kumar Jajoo was not examined. Dr. R. S. Taxak who had done the medical examination was also not examined. Instead one A. S. Agarwal was examined who claim himself to have been associated with Arun Kumar Jajoo while doing Surveyor work. The enquiry officer relied upon his evidence. This Tribunal while dealing with preliminary issue had held that evidence of A. S. Agarwal has been got up for the purposes of the case. Hence his evidence was not reliable specially in the absence of corroboration from the victims.

5. After the finding was vitiated the management was given opportunity to the management to perform the misconduct on merits and for that 2-4-96 was fixed. On the request of management the case was adjourned to 20-5-96. Still the management did not adduce evidence hence they were debarred from giving evidence. The workman also did not adduce any evidence. Thus virtually it is a case of no evidence. The criticism made by this Tribunal while vitiating the enquiry report still held good. Hence all the charges made against the concerned workman are not proved. Accordingly award is that the punishment of concerned workman as awarded under Head one and two are not justified and the concerned workman will be entitled for all benefits as if he was not awarded any punishment. Nothing has been said regarding 3rd and 4th part of the reference. Hence they are answered against the concerned workman. It is made clear that two by the seniority of the concerned workman has been changed and he has not been given promotion on the basis of punishment on the basis of domestic enquiry the same shall not now be arsticle, in granting the same by the management.

5-3-1997.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 मार्च, 1997

कां.प्र. 927 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल इन्श्योरेंस कंपनी लि. के प्रबन्धन के संवर्धन नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-03-97 को प्राप्त हुआ था।

[संख्या एल-17012/49/92-आई.आर.बी. 2]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 13th March, 1997

S.O. 927.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of National Insurance Co. Ltd. and their workmen, which was received by the Central Government on 12-3-97.

[No. L-17012/49/92-IR B-2]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 7 of 1993

In the matter of dispute between :

Sri Ram Pratap C/o B. P. Saxena,
172/191 W-1 Saket Nagar, Kanpur.

AND

Regional Manager,
National Insurance Company Limited,
Regional Office Hazratganj, Lucknow.

AWARD

1. Central Government, Ministry of Labour, vide its notification no. L-17012/49/92 I.R. B-2 dated 20-1-93, has referred the following dispute for adjudication to this Tribunal—

“Whether the action of the Regional Manager National Insurance Company Ltd., Lucknow in terminating the services of Sri Ram Pratap w.e.f. 31-5-89 is justified ? If not to what relief is the workman entitled to ?”

2. The concerned workman Ram Pratap has stated that he was in the subordinate staff cadre of the opposite party National Insurance Company Limited at Transport Nagar Branch, Kanpur from 17-6-87 and he worked for more than 240 days in every year in the years 1987, 1988 and 1989. The concerned workman's services were brought to an end on 31-5-89 without payment of retrenchment compensation and notice pay, hence this retrenchment is bad. Further after his recruitment Ashok Kumar was engaged without affording opportunity to him.

3. The opposite party has filed reply in which it has been denied that the concerned workman was engaged in the sub-staff cadre and his name was never sponsored by the employment exchange. Instead he was temporarily engaged for short period for providing water at the branch. Hence he was not workman as such question of compliance of section 25F I.D. Act does not arise.

4. In the rejoinder this fact has been denied that the concerned workman was engaged as waterboy.

5. In support of his case the concerned workman has examined himself as W.W.1 besides he has filed Ext. W-1 to Ext. W-16. In rebuttal there is evidence of Satish Chandra Gupta, Administrative Officer alone.

6. The concerned workman has stated that he was engaged as peon from 17-6-87, and he worked upto 31-5-89 and wages were paid some times in his name and some times in the name of others Satish Chandra Gupta M.W.1 has stated that the concerned workman some time was engaged to bring water in the branch. No office work has ever taken from him. Ext. W.1 to W-16 are the vouchers which go to show that the concerned workman was asked to carry office records at the photocopier's shop and for which payment was also made to him. This is certainly office work. Thus the evidence of the management witness that no office work was ever taken from the concerned workman is not correct. From this I am inclined to believe that the concerned workman was engaged to do office work as well which is the job of peon. Thus he was a workman employee of the opposite party.

7. The concerned workman has stated that he had completed 240 days in every year before his retrenchment. This fact has been denied by Satish Chandra Gupta M.W. 1. In my opinion, this oral evidence was not enough. The management ought to have filed vouchers to prove the number of days for which concerned workman had worked. In its absence drawing adverse inference I accept the evidence of workman and hold that the workman had completed for more than 240 days in a year before his retrenchment.

8. Admittedly no retrenchment compensation and notice pay has been paid to the workman hence the retrenchment of concerned workman is bad being in breach of section 25 of I.D. Act.

9. There is unrebutted evidence of the concerned workman that after his retrenchment Ashok Kumar was engaged, hence I accept this evidence as well. As no opportunity was given to the concerned workman, his retrenchment is bad as well being in breach of sec. 25H of the I.D. Act.

10. In view of above discussion, my award is that termination of the services of the concerned workman is bad in law and he is entitled for reinstatement

with back wages at the rate at which he was drawing wages at the time of his retrenchment.

B. K. SRIVASTAVA, Peesiding Officer

नई दिल्ली, 13 मार्च, 1997

कां.आ. 928 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यू इंडिया इश्योरेंस कंपनी लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निष्पक्ष औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को, 12-03-97 को प्राप्त हुआ था।

[संख्या एल-17012/47/94-आई.आर.(बी. II)
ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 13th March, 1997

S.O. 928.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of New India Assurance Co. Ltd. and their workmen, which was received by the Central Government on 12-03-1997.

[No. L-17012/47/94-IR(B-II)]
BRAJ MOHAN, Desk Officer
ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMIL NADU, MADRAS

Wednesday, the 26th day of February, 1997

PRESENT :

Thiru S. Thangaraj, B.Sc., L.L.B., Industrial Tribunal.

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of New India Assurance Co. Ltd., Villupuram).

BETWEEN

Shri K. S. Ravindran,
182, Junction Road,
Vidudhacahalam-606 001.

AND

The Branch Manager,
New India Assurance Co.
127-A, Thiruvika Road,
Villupuram.

Reference :

Order No. L-17012/47/94-IR(B.II), Ministry of Labour, dated 31-1-95/8-2-95, Govt. of India, New Delhi.

This dispute coming on this day for final hearing, upon perusing the claim statement and all other material papers on record, and upon hearing the arguments of Tvl. K. Chandru, D. Brarathy and M. Radhika, Advocates appearing for the petitioner, and the respondent being absent and set ex parte, this Tribunal made the following :

AWARD

This reference has been made for adjudication of the following issue :

"Whether the action of the Management of New India Assurance Co. Ltd., Villupuram in terminating the services of Shri K. S. Ravindran, Dev. Inspector, w.e.f. 17-8-93 is legal and justified ? If not, what relief is the said workman entitled to?"

WW1 examined. Exs. W-1 to W-14 marked. Claim statement and Exs. W-1 to W-14 and the evidence of WW1 perused. There are sufficient materials to hold that the claim of the petitioner is proved. Award passed for reinstatement, continuity of service, back wages and other attendant benefits. No costs.

Dated, this the 26th day of February, 1997.

S. THANGARAJ, Industrial Tribunal

WITNESSES EXAMINED

For Workmen :

W.W.1 : K. S. Ravindra.

DOCUMENTS MARKED

- Ex. W-1/29-6-83 : Appointment letter given petitioner (Xerox copy).
- Ex. W-2/29-8-83 : Order allotting the petitioner in Villupuram Branch (Xerox copy).
- Ex. W-3/14-1-84 : Certificate issued to petitioner for Inspectors Examination (xerox copy).
- Ex. W-4/12-1-85 : Order of confirmation issued to petitioner (xerox copy).
- Ex. 5/5-5-93 : Show cause notice (xerox copy).
- Ex. W-6/3-6-93 : Appeal preferred by the petitioner against the proposal of termination (Xerox copy).
- Ex. W-7/9-7-93 : Appeal to the Appeal's committee by petitioner (xerox copy).

Ex. W-8/9-6-93 : Letter by the respondent forwarding the appeal with his recommendation (xerox copy).

Ex. W-9/ : Termination order (xerox copy).

Ex. W-10/17-8-93 : Appeal to the Chairman and Managing Director (xerox copy).

Ex. W-11/17-8-93 : Letter by the branch Manager forwarding the appeal (xerox copy).

Ex. W-12/18-8-94 : Rejoinder filed by the petitioner (xerox copy).

Ex. W-13/4-7-94 : Counter filed by Management (xerox copy).

Ex. W-14/13-5-94 : Conciliation failure report (xerox copy).

नई दिल्ली, 13 मार्च, 1997

कां०आ०. 929 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-03-97 को प्राप्त हुआ था।

[संख्या एल-17012/22/86-आई.आर.(बी. II)डी. IVए]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 13th March, 1997

S.O. 929.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workmen, which was received by the Central Government on 12-03-97.

[No. L-17012/22/86-D.IVA/IR(B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, AT CALCUTTA

Reference No. 34 of 1988

PARTIES :

Employer in relation to the management of LIC of India.

AND

Their workmen

PRESENT :

Mr. Justice K. C. Jagadeb Roy, Presiding Officer

APPEARANCE :

On behalf of Management.—Mr. S. Sarkar,
Advocate, with Miss. S. Chakraborty,
Advocate.

On behalf of Workmen.—Mr. P. R. Paul,
Advocate.

STATE : West Bengal.

INDUSTRY : Life
Insurance.

AWARD

By Order No. L-17012/22/86-D.IV(A) dated 27th April, 1987 the Central Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of LIC of India, Zonal Office, Calcutta in not accepting the date of birth of Shri **Bistu Chandra Dutta**, Record Clerk LIC of India, Eastern Zonal Office, Calcutta, recorded in his horoscope as 6-1-1930 and retiring him from the service of the corporation w.e.f. 1-3-1986 is justified ? If not to what relief the workman concerned is entitled ?”

2. The union and the management filed their respective written statements, followed by an additional written statement as well as a rejoinder of the union.

3. According to the written statement of the union, the workman Shri Bistu Chandra Dutta was appointed as Boy Peon in the erstwhile Metropolitan Insurance Company on or about 6th January, 1943 when his age was only 13 years. The employer Metropolitan Insurance Company, according to the union, had recorded the age of this workman as 13 years on 6-1-1943 the date of his appointment and prepared his service records. He had however taken two insurance policies in the year 1946 and 1948 wherein his age was recorded differently. In the policy dated 11 February 1946 marked on behalf of the management as Ext. M-4 his age was shown as 20 years but subsequently corrected to 17 years, at the time of making proposal for policy. Similarly, on the policy taken in the year 1948 his age was declared to be of 22 years. According to him even though these two policies would show that his date of birth will be during the year 1926, this was not actually correct age as he simply signed the declaration in the proposal form without knowing the full implication of it as he did not know much of English. Latter, however

the insurer and the employer being the same person, accepted his age as 19 years on 5-5-1948 being the commencement of the second policy, which would imply that his date of birth was 5-5-1929 and necessary corrections were made in the premium ledger since his age was reduced by this process. According to the workman the age on both the policies were accordingly corrected in both the policies. The LIC of India brought into existence on or about 1-9-1956 and the entire life insurance business of the Metropolitan Insurance Company was taken over by the LIC and in 1957 the workman was categorised as Record Clerk (Class-III) from 1-9-1956. The workman also had taken two more policies under the LIC in the year 1958 and 1959 bearing No. 9147910 and 9580380 respectively. By letter dated 9-2-1959 the Metropolitan Unit had asked him to submit documentary evidence in support of his age. He had referred to his service record of the Metropolitan Unit. According to the workman the Metropolitan Unit had sent those information to the Eastern Zonal Office of the LIC alongwith a copy of the original horoscope on 9-2-1960. According to him the LIC after receiving those informations from the Metropolitan Unit issued two letters to the workman on 10-10-1959 and 1-8-1963 respectively (which are now marked Ext. W-1 and W-2) confirming his date of birth as 6-1-1930 and his age on those policies meaning thereby the policies taken under the LIC were admitted on the strength of the Service record with the Metropolitan Insurance Company. But on July 1966 the workman was asked verbally to produce acceptable evidence in proof of his age. He replied to the Secretary of the LIC of India, Zonal Office by his letter dated 16 August 1966, a copy of this is filed as Annexure 'B' to the written statement which shows that on his reappointment in 1955 the Company recorded his age as 29 years in the service record which itself would show that the record of the Company namely the Metropolitan where he was serving, but that was wrong. He also admitted in the letter that after he joined the LIC, as a documentary evidence in proof of his age, submitted horoscope. He also submitted his school leaving certificate to the unit office alongwith his letter dated 14-9-1959 but the management refused to accept the school leaving certificate and the original horoscope and admitted his age as per the record prepared at the time of reappointment, but on the date of the letter namely 16 August, 1966 he had already lost the school leaving certificate and though he tried to get a duplicate school leaving certificate from the school where he studied upto Class-VIII, he found that school has become non-existent. He also mentioned that when he took the policy No. 99486 with the Metropolitan, he has admitted his age on the strength of the original horoscope. He stated that he had drafted

this letter after receiving the proper advice from his departmental boss Shri Ram Chandra Banerjee who had prepared the letter dated 16-8-1966. He thought that because of his letter dated 16-8-1966 his age could have been recorded correctly as no reply was received by him.

In the year 1973 the workman was sent-up for appearing in the School Final Examination of the Board of Secondary Education, West Bengal as a private candidate where his date of birth is shown as 6 January, 1930 which he has exhibited as W-4 and the Admit Card for the said examination which is also part of Ext. W-4 shows that the date of birth is 6-1-1930. In spite of all these above facts, his date of birth should have been 6-1-1930 and not February 1926 on the basis of which he had retired on 1-3-1986 on completion of 60th year.

In the year 1986 the workman as a petitioner, has filed a Writ Petition before the Hon'ble High Court of Calcutta bearing No. 10601 (W) of 1986 bringing all these facts and with a prayer that the date of superannuation having been wrongly recorded and the management having arbitrarily ignored his date of birth to be 6-1-1930, the order retiring him with effect from 1-3-1986 be cancelled/set aside and to allow the petitioner to join duties with effect from 1-3-1986 notwithstanding the order of superannuation and to treat his service continuous without any break. A copy of this writ application is also filed by the management as Ext. M-1. But the Hon'ble High Court by its order dated 29th August, 1986 dismissed the case holding that in any event there was no evidence to justify any interference of the Writ Court and as such ordered that the Writ Application failed and was dismissed.

4. The management in their written statement stated that the workman had no case and the recording of the date of birth of the workman as 1-3-1926 in their record is absolutely justified, requiring the workman rightly to superannuate with effect from 1-3-1986 and stated that these exhibits M-1 and W-2 on the basis of which the workman was claiming that the LIC had admitted the date of his birth as 6-1-1930 are no evidence in law as they do not bear the signature of any officer in the said documents and were merely typed copies and since there was doubt about the date of birth of the workman, he was given all opportunity to produce the documents in proof of his age and by his letter dated 7-7-1948 the workman had declared that he had no documentary evidence to prove his age and his age as recorded as in the insurance policies. His letter dated 7-7-1948 also shows that he had no horoscope by that date and since he produces a horoscope subsequently, this can be only a manufactured one with ulterior motive to extend the period of his service.

The employee was once retrenched and subsequently reinstated by the Metropolitan Insurance Company on 11-2-1955 and the Metropolitan Insurance Company recorded his date of birth was in 1926 and has been recorded the same in his service sheet. This horoscope was only produced by the workman only when the Metropolitan Insurance Company asked the workman to produce school leaving certificate, which is 3 years subsequent to his reinstatement that means in the year 1958. The staff record sheet of the LIC shows that he was 29 years 10 days on 1-1-1956 which was on the basis of the statement of the workman himself.

5. On these pleadings, both the workman and the management had led their oral evidence. While the workman had examined himself as WW-1 and a colleague of his as WW-2, the management had examined their sole witness MW-1 who is a Manager Planning in the Calcutta LIC.

6. When the date of birth is challenged by a workman working in an establishment, how his age was recorded with his previous employer is a vital piece of evidence to be considered by the new employer. In the present case the workman asserted that his date of birth was correctly recorded by his previous employer, Metropolitan Insurance Company in the year 1943 as 6-1-1930 and for such assertion he relies on Ext. W-2 a letter addressed by the Additional Zonal Manager of the LIC to the workman on 11 August, 1963 wherein it has been mentioned that his date of birth was 6-1-1930 on the strength of his service recorded and is quoted below :—

"Reference your letter dated 25-7-63 and your representation at this office on the above date, we are to inform you that your age under the policy stands admitted. Your date of birth is 6-1-1930 on the strength of your Service Record. The above information is according to the basis of an Extract from the evidence of your age submitted to our Unit, Metropolitan in connection with Policy Nos. 148166 and 99486 you hold with them."

This letter has been challenged by the management as a fabricated one, firstly on the ground that it has not been signed by anybody and does not in the form in which such correspondences are made by the LIC with their employees, it is merely a typed letter, which I also find to be true that this document is without any signature of the signatory.

The other document Ext. W-1 which is also purported to have written by the Divisional Manager to the workman on 10-10-1958 mentioning that on the basis of his Policy No. 148166

with the Metropolitan Insurance Company the date of birth recorded therein namely 6-1-1930 was being recorded by the LIC as his date of birth. The management witness MW-1 has disowned this document as much as he did in the case of Ext. W-2, stating that this document is not only fabricated, it also bears no signature of the Divisional Manager. I am also satisfied with this contention. Therefore, these two documents cannot be of any use in proof of the fact that the LIC had exhibited his date of birth at any point of time to be 6-1-1930.

7. Ext. W-3 is a letter written by the workman to the Secretary, LIC. He had admitted in that letter that on his reappointment in 1955 by the Metropolitan Insurance Company, his age was recorded as 29 years, implying therefrom that his date of birth was in the year 1926. He has not examined any person or gave any evidence how this wrong recording was done, if originally it was found that his date of birth was 1-6-1930. The original entry of date of birth in the Metropolitan Unit as 6-1-1930 has never been produced by the workman in evidence. Both the policies which were taken in the year 1946 and 1948 would also show that his year of birth is 1926. The workman, however stated in his evidence that when he signed the proposals for these two policies, the proposals were filled-up under his instruction and in respect of the policies he gave his date, which he stated in his cross-examination on 20-6-1991. The policies show, as I have already stated, that he was 20 years at the time of 1946 policy and 22 years at the time of 1948 policy, which has also been mentioned in paragraphs 9 and 10 of the written statement of the workman, though in his letter dated 16 August, 1966 to the Secretary, LIC, Ext. W-3 he mentioned that he submitted his school leaving certificate to the Metropolitan Unit Office but the management has refused to accept the school leaving certificate as well as his original horoscope. In his evidence he has stated in cross examination on 1-8-1991 that he had got the school leaving certificate in the year 1955 and thereafter he lost the same further went on to say in 1958 he submitted those school leaving certificate in office and the office had lost the same. His statements are therefore thoroughly contradictory. From his statement, therefore, it is not clear, if actually the certificate had been given to the authorities and they lost it or he had actually lost it.

8. In the evidence of the Management Witness No. 1, the witness stated that the workman was asked to give a duplicate of the certificate from the school but the workman stated that the school has become non-existent and he could not obtain the same. Therefore, the fact that the workman had a school certificate and produced the same

before the authorities is seriously in doubt and not proved.

9. His reliance on the certificate Ext. W-4, of which a xerox copy of the permission to the workman to appear in the school final examination as a private candidate and the other part is the Admit Card for the said examination which shows his date of birth as 6th January 1930. The certificate was issued in the year 1973 after the dispute arose regarding the date of birth and the workman had not called for the original records wherefrom this date of birth was recorded in this Admit Card and if it is on his own declaration at the time of taking the examination as a private candidate. I do not consider that enough of reliance can be given to this document as against his own declaration of date of birth to be in the year 1926 as contained in his two proposals for the insurance policies of the year 1946 and 1948.

10. Coming to the next point which the workman relied on is the horoscope he produced. His statement about the existence of the horoscope at the time of joining the service at the Metropolitan Insurance Company is not borne out from any materials in evidence. On the other hand, in the cross-examination dated 20-6-1991 this workman sa WW-1 has stated that he got this horoscope in the year 1963-1964 and also undertook to prove the validity of the same by examining some other persons since his mother is already dead who prepared the horoscope. He has also contradicted his own statement regarding this in his cross-examination on 1-8-1991 stating that he got the horoscope in the year 1957-1958 from his mother. He also admits on the same day that he declared earlier that he had no horoscope or a school certificate or document in support of his age. Rightly therefore this workman who has been given an opportunity by the management to prove his date of birth as claimed by him and the workman has failed to prove the same to be 6-1-1930 and not 28-2-1926, justifying his retirement with effect from 1-3-1986 as per Ext. W-5.

11. In the result, the action of the management of LIC of India, Zonal Office, Calcutta in not accepting the date of birth of Shri Bistu Chandra Dutta, Record Clerk, LIC of India, Eastern Zonal Office, Calcutta as per his horoscope to be 6-1-1930 and retiring him from the service with effect from 1-3-1986 is justified and since the workman has retired with effect from that date, he is not entitled to any relief on that count.

The reference is answered accordingly.
Dated, Calcutta,

The 27th February, 1997.

K. C. JAGADEB ROY, Presiding Officer

नई दिल्ली, 13 मार्च, 1997

कां० 930.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल इन्सुरेन्स लि. के प्रबंध तंत्र के संवद्ध और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-03-97 को प्राप्त हुआ था।

[संख्या प्ल-17011/10/90-आई०आर०बी०2]
ब्रज मोहन, डैस्क अधिकारी

New Delhi, the 13th March, 1997

S.O. 930.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of National Insurance Co. Ltd. and their workmen, which was received by the Central Government on 12-03-1997.

[No. L-17011/10/90-IR(B-II)]
BRAJ MOHAN, Desk Officer
ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUC-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 152 of 1990

In the matter of dispute :

BETWEEN

Shri Rajiv Kumar Jain,
through Sri Surendra Singh,
2/236, Nannair,
Agra.

AND

Regional Manager,
National Insurance Company Ltd.,
6, Shahnajaf Road,
Lucknow.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-17011/10/90-IR(Bank-I) dated 12-7-90, has referred the following dispute for adjudication to this Tribunal—

Whether the Regional Manager, National Insurance Co. Ltd., Lucknow was justified in terminating the service of Shri Rajiv Kumar Jain as Peon w.e.f. 16-9-86? If not, what relief the workman was entitled to?

2. The case of the concerned workman Rajiv Kumar Jain is that he was appointed as a peon at Firozabad Branch of the opposite party National Insurance Company Limited on 1-8-85 and he worked there continuously upto 15-9-86, when his services were brought to an end w.e.f. 16-9-86. He had completed more than 240 days in a year. Since his retrenchment was effected without payment of retrenchment compensation and notice pay the said is bad.

3. The case of the opposite party is that the concerned workman was engaged as casual labour and he did not work continuously. Work was taken from him as and when required.

4. In the rejoinder nothing new has been said.

5. In support of his case, the concerned workman Rajiv Kumar Jain has examined himself as W.W. 1 besides he has filed Ext. W. 1 to W-77 vouchers. In rebuttal Vinod Chand Agrawal M.W. 1 an officer of the bank was examined. Besides Ext. M-1 to M-25 have been filed. Some of which would go to show that concerned workman had himself admitted that he had performed the job of serving water. However, in his cross examination he has admitted that the concerned workman had worked for 224 days in a year. In view of this admission it is unnecessary to refer to vouchers filed by the workman and other papers filed by the management. After adding sundays and other holidays in 224 days for which the concerned workman had admittedly worked it will go much beyond 240 days in a year. Hence, it will be deemed that the concerned workman had completed for more than 240 days in a year. Admittedly no notice pay and retrenchment compensation has been given hence his retrenchment being in breach of section 25F of I.D. Act, is bad in law.

6. Hence my award is that retrenchment of concerned workman w.e.f. 16-9-86 is bad in law and he will be entitled for reinstatement with back wages from the date of reference at the rate at which he was drawing his wages at the last time.

Sd/-

3-3-97

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 मार्च, 1997

कां० 931.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबंध तंत्र के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-03-97 को प्राप्त हुआ था।

[संख्या प्ल-12012/308/93-आई०आर०बी०-2]
ब्रज मोहन, डैस्क अधिकारी

New Delhi, the 13th March, 1997

S.O. 931.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 12-03-1997.

[No. L-12012/308/93-IR(B-2)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 38 of 1994

In the matter of dispute :

BETWEEN

Sri Ram Pratap,
C/o V. N. Sekhari,
26/104 Birhana Road,
Kanpur.

AND

Manager Bank of Baroda,
Sisamau Branch,
Kanpur.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-12012/308/93-IR(B-2) dt. 6th April 1994, has referred the following dispute for adjudication to this Tribunal—

Whether the claim of Sri Ram Pratap that the management of Bank of Baroda, Kanpur was not justified in terminating his services as peon w.e.f. 19-9-89 is correct. If so, what relief is Shri Ram Pratap entitled to ?

2. The concerned workman Ramendra Kumar Choudhary in his claim statement has alleged that he was engaged as a temporary peon in the opposite party Bank of Baroda at its Sisamau Branch as waterman on 9-2-89 and he worked there upto 18-9-89 as a daily rated worker. He had worked for 73 days. Thereafter his services were discontinued in breach of Section 25G and H of I.D. Act.

3. The opposite party Bank of Baroda has filed reply in which it was alleged that the concerned workman was engaged to supply water on daily

basis. He did not come to join after 18-9-89. In other words his services were not discontinued by the management. It is also denied that there has been breach of Section 25G and H of I.D. Act.

4. In the rejoinder nothing new has been said.

5. In support of his case the concerned workman has examined himself as Ram Pratap as W.W. 1. In rebuttal there is evidence of Senior Manager Mohd. Ali M.W. 1. Further Ext. M. 1 to M. 68 vouchers have been filed.

6. Mohd. Ali M.W. 1 has specifically stated that after 18-9-89 the concerned workman himself stopped coming. The concerned workman W.W. 1 has not rebutted. Thus the evidence of the management is unrebutted on this point. Hence I accept it and come to the conclusion that the concerned workman had left the job of his own.

7. In such a case question of breach of Section 25H and G would not arise. In any case the concerned workman has not pleaded the names of persons who were retained in service and persons who were employed as fresh. In the absence of this pleading the case of the concerned workman cannot be accepted in respect of breach of Section 25G & H of I.D. Act.

8. In view of above discussion it is held that the when the services of the concerned workman were not discontinued question of its being illegal does not arise. He had left the job of his own. Hence he is not entitled for any relief.

Sd/- 3-3-97

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 मार्च 1997

क्र.सं.आ. 932.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिडिकोट बैंक के प्रबंध तंत्र के संबद्ध निधियों और उनके कर्मचारियों के बीच अनुबंध निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 12-3-97 को प्राप्त हुआ था।

[संख्या एल-12012/120/94-आई.आर.बी.-2]

ब्रजमोहन, डेस्क अधिकारी

New Delhi, the 13th March, 1997

S.O. 932.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of Syndicate Bank and their workmen, which was received by the Central Government on 12-03-1997.

[No. L-12012|120|94-IR-L B-2]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 60 of 1994

In the matter of dispute :

BETWEEN

Radhey Shyam,
S/o Ram Gopal Jatav,
Mohalla Hatim Sarai,
Samthal District,
Moradabad.

AND

Dy. General Manager,
Syndicate Bank,
Zonal Office,
Naval Kishore Road Skylark,
Third Storey,
Lucknow.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-12012|130|94-IR(B-2) dated 27-7-94, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Syndicate Bank, Lucknow in terminating the services of Sri Radhey Shyam sub staff water boy first w.e.f. 4-4-89 and then w.e.f. 22-8-93 is justified? If not, what relief is the said workman entitled to?

2. The concerned workman Radhey Shyam has alleged that he was engaged at Samthal Branch of the opposite party Syndicate Bank as a temporary water boy in May 1989. It is further alleged that no doubt he was designated as a water boy, the work of attender was being taken from him. He continued to work till 4-4-89 when his services were abruptly brought to an end. This termination is in breach of section 25F I.D. Act, thereafter on the representation of concerned workman he was again taken in service on 19-8-91 and he worked upto 21-8-93, when his services were once again terminated in breach of section 25F of I.D. Act.

3. The opposite party has filed reply in which it has been alleged that concerned workman was not appointed as a attender or peon. Instead he was engaged as a water boy. He himself stopped coming. It is further alleged that there is no relationship of master and servant between the two as he was engaged on the basis of contract for service and not on the basis of contract of service. As regards plea of working is concerned, the claim of the concerned workman has not been denied.

4. In the rejoinder nothing new has been alleged.

5. In support of his case the concerned workman Radhey Shyam has examined himself as W.W. 1 besides he has filed Ext. W. 1 to W. 7. In rebuttal there is evidence of Asad Husain M.W. 1. Besides there are Ext. M. 1 to M-16. As far as the case of illegal retrenchment of the concerned workman on 4-4-89, Ext. M. 1 demolishes the same in toto. It is an application dated 6-6-91 given by concerned workman in which he had stated that because of infection in his hand he could not continued in service w.e.f. 4-4-89. This shows that the concerned workman himself ceased going to office. In such a case question of retrenchment does not arise. Hence, my finding is that the concerned workman was not retrenched on 4-4-89 at all hence question of its being bad does not arise. Consequently the concerned workman will not be entitled for any relief on the basis of this alleged retrenchment.

6. Now the case of the engagement from 19-8-91 to 21-8-93 may be considered. In this point there is evidence of the concerned workman that he had continuously worked during this period Asad Hussain M.W. 1 has not denied this fact. He has also not disputed that the concerned workman had not worked there during this period. His only evidence is that the concerned workman had himself stopped coming to office on the plea that amount which was being paid to him was not enough for him. This evidence being beyond the pleadings is discarded outrightly. The case of the concerned workman that he had continuously worked during this period has not been rebutted. Hence I accept it.

7. Hence my finding is that the workman had continuously worked between period 19-8-91 to 21-8-93 and thus had completed for more than 240 days. Admittedly no retrenchment compensation and notice pay was given to him hence this retrenchment is bad. Accordingly my award is that the termination of the concerned workman w.e.f. 22-8-93 is bad and he is entitled for back wages from this date at the rate at which he was drawing wages for the last time.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली 13 मार्च 1997

AWARD

कां.ग्रां. 933.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधक के संबंध में निधोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट्ट को प्रकाशित करती है जो केन्द्रीय सरकार को 12-03-97 को प्राप्त हुआ था।

[संख्या एन-12012/160/91-आई.आर. (बी. 2)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 13th March, 1997

S.O. 933.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workmen, which was received by the Central Government on 12-03-1997.

[No. L-12012/160/91-IR(B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 118 of 1991

In the matter of dispute :

BETWEEN

General Secretary,
Bank of India Staff Association
through Bank of India,
R. M. Office,
Mal Building,
Ashok Marg,
Lucknow.

AND

Regional Manager,
Bank of India,
Lucknow Region,
1st Floor, Mal Building,
P. B. No. 316,
Ashok Marg,
Lucknow.

APPEARANCE :

Sri V. K. Gupta for the Management.

Sri B. P. Saxena for the Workman.

1. Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-12012/160/91-I.R.(B-2) dated nil, has referred the following dispute for adjudication to this Tribunal—

Whether the Regional Manager, Bank of India Mariawan, Lucknow is justified in terminating the services of Shri Vijay Pal S/o Munna as sub-staff with effect from 8-5-87? If not, to what relief is the workman entitled?

2. The concerned workman Vijay Pal in his claim statement has alleged that he was engaged on 23-7-84 as Sepoy in Mandion Branch of the opposite party Bank of India to do permanent nature of work. He continuously work upto 7-5-87. As his services were terminated without complying of Section 25F I.D. Act the same is bad. Further this termination is bad being in breach of Section 25H I.D. Act.

3. The opposite party has filed reply. In which it has been alleged that concerned workman was never engaged on any permanent post. Instead he was engaged to supply water at this branch. He had not continuously worked.

4. In the rejoinder it has been denied that the concerned workman was engaged to bring water.

5. In support of his case the concerned workman Vijay Pal W.W. 1 examined himself besides he has filed Ext. W-1 to W-5. In rebuttal the opposite party has examined its manager Umesh Kumar Srivastava M.W. 1. Further a copy of letter dated 12-4-88 given by the concerned workman has also been filed.

6. In my opinion whether the concerned workman was engaged as Water Boy or Sepoy, is immaterial, as in either as the concerned workman would be deemed as a workman under section 2(s) I.D. Act.

7. The concerned workman Vijay Pal W.W. 1 has stated that he has continuously worked from 23-7-84 to 8-5-87. In his cross examination he has stated that besides bringing water he used to do other work of the bank as well. Umesh Kumar Srivastava M.W. 1 has stated that the concerned workman was engaged as a part-time casual labour and he used to supply water. There is annexure-I of written statement, which is copy of letter dated 12-4-88 in which the concerned workman has stated that he had never worked with the bank. In my opinion this letter is not the outcome of free will of the concerned workman. It also stand relied from the certificate from the Ext. W. 3 & W-4 issued by the Branch Manager of bank considering that the workman had worked as Water Boy on daily

wages. These papers also indicate that the concerned workman had also worked continuously. Management has not filed vouchers which would have shown the number of days and the nature of work which concerned workman has performed. In view of above discussion I accept the version of concerned workman, that he had worked continuously between 23-7-84 to 8-5-87. Hence provision of 25F were applicable to him. Admittedly no notice pay and retrenchment compensation has been paid to him. Hence his retrenchment is bad on this score.

8. There is no evidence about the breach of section 25H I.D. Act.

9. In view of above discussion my award is that the termination of concerned workman is bad in law. However because of unexplained delay in raising industrial dispute he will be not entitled for reinstatement and back wages instead he will be entitled for Rs. 10,000 as compensation in lieu of reinstatement.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 मार्च, 1997

कां० 934.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओरियण्टल बैंक ऑफ कामर्स के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 12-03-97 को प्राप्त हुआ।

[संख्या एल-12012/05/95-आई०आर०(बी० 2.)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 13th March, 1997

S.O. 934.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oriental Bank of Commerce and their workmen, which was received by the Central Government on 12-03-1997.

[No. L-12012/05/95-IR(B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 129 of 1995

In the matter of dispute :

BETWEEN

Sri Arun Kumar Mishra,
Uttar Pradesh Bank Workers' Organisation,
2 Naveen Market,
Kanpur.

AND

General Manager,
Oriental Bank of Commerce,
Mall Road,
Kanpur.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its Notification No. 12012/05/95-IR(B-II) dated nil has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Oriental Bank of Commerce, Kanpur, in terminating the services of Sri Ajay Kumar Dwivedi, Class-IV temporary workman w.e.f. 20-5-94 is legal and justified? If not, to what relief is the said workman entitled?

2. The concerned workman Ajai Kumar Dwivedi in his claim statement has alleged that he was engaged as temporary water boy, peon and daftary by the opposite party Oriental Bank of Commerce at Mall Road Branch and he continuously worked from May 1990 to 20-5-94 after which his services were illegally terminated, and this termination is bad in law.

3. The opposite party has filed written statement in which it is alleged that concerned workman was engaged as peon water boy or daftary by the opposite party. In fact he was a canteen boy of the canteen which was being run in the premises of the bank.

4. In the rejoinder this fact has been denied. Further it has been alleged that he was engaged by the opposite party.

5. In support of his case the concerned workman Ajay Kumar Dwivedi has examined himself as W.W. 1 besides Ext. W. 1 to W-26 papers have been filed. In rebuttal the opposite party has examined their Accountant Bal Krishna Agrawal M.W. 1 besides Ext. M. 1 to M. 4 have been filed.

6. The only point which needs consideration is as to whether the concerned workman was engaged by the opposite party. Naturally in support of this version the concerned workman has given his evidence. In his cross examination he has stated that he was paid his wages through vouchers. He has denied the suggestion that he was a canteen boy of the canteen. Ex. W. 1 to W. 21 are papers

which go to show that concerned workman had done certain jobs for the bank for which receipt was issued to him. These papers have been filed to show that he was doing work of the bank like purchase of stationary e.c. Ext. W-24 is the copy of ledger of the concerned workman. Ext. W-25 is the paper which was issued by the canteen owner informing all the person that the rate of a cup of tea and coffee has been enhanced and its information has been given to all including the concerned workman whose initials are to be found in it. On the basis of this notice the authorised representative of the concerned workman has submitted that it is the strong proof to show that the concerned workman was an employee of the bank. In my opinion this issuance of notice by third person would not fasten the liability on the opposite party bank specially in view of Ext. M-1 the reference of which will be made later on. The authorised representative of the bank has specifically stated that the concerned workman was not an employee of the bank. Instead he was canteen boy. There is Ext. M-1 the photocopy of application form for opening account in the opposite party bank by the concerned workman. In it the concerned workman has not mentioned himself as the employee of the bank. In normal course had been an employee of the bank he would have certainly mentioned this fact. This omission goes to falsify his case as well, as demolishes the inference of Ext. W-25. As regards the other papers by which the concerned workman was asked for doing some other work there is evidence of Bal Krishna Agrawal M.W. 1 that as and when regular peon was not available in the bank such type of work was taken from the concerned workman. In my opinion this is a natural explanation and I am trying to accept it. Thus it cannot be a basis for accepting the version of the concerned workman.

7. In view of above discussion I accept the version of the bank and hold that the concerned workman was not their employee. Instead he was an employee of canteen. Hence question of termination does not arise. Accordingly the concerned workman is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 मार्च, 1997

कां.अ. 935.—औद्योगिक विवाद अधिनियम, 1947 (1957 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबंध तंत्र के संबंध नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-10-97 को प्राप्त हुआ था।

[संख्या एल-12012/357/92-आई.आर. (बी. II)]

ब्राज मोहन, डेस्क अधिकारी

New Delhi, the 13th March, 1997

S.O. 935.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 12-03-1997.

[No. L-12012/357/92-IR(B-II)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 23 of 1993

In the matter of dispute :

BETWEEN

Jagdish Chandra Joshi,
C/o M. L. Gupta, General Secretary,
Bank of Baroda Staff Association,
15/222-A Civil Lines,
Kanpur.

AND

Regional Manager,
Bank of Baroda,
1, Sankalan,
Civil Lines,
Motia Parav,
Haldwani,
Nainital.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide Notification No. L-12012/357/92-IR(B-II) dated 5-3-93, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Bank of Baroda in terminating the service of Sri Jagdish Chandra Joshi Temporary peon w.e.f. 1-1-89 is legal and justified ?
If not what relief the workman is entitled ?

2. The concerned workman Jagdish Chandra Joshi in his claim statement has alleged that he was engaged as sub staff on 28-12-87 in the Haldwani branch of the opposite party Bank of Baroda and he was doing work of a permanent nature on a permanent post but he was being paid Rs. 15 to 20 per day as wages which was unfair labour

practice. When he claimed for regularisation the concerned workman was retrenched in December 1988 which is bad in law being in branch of section 25F of I.D. Act. Further the opposite party has filed reply in which it has been alleged that concerned workman was not engaged. Instead he was required to work of supply water as and when necessary. Thus he had not continuously worked. Further he himself stopped doing work as wages were not to his satisfacton.

3. Both the parties have filed a number of papers about the number of days.

4. There is evidence of concerned workman that he had completed 240 days in a year. He has said nothing about leaving the job.

5. On the other hand Dinesh Kumar Goel Assistant General Manager M.W. I has stated that the concerned workman had left the job of his own on 1-1-89. He has also not been cross examined on this point. Thus his evidence is uncross examined. Hence relying on this evidence, I come to the conclusion that the concerned workman had left the job of his own. In such a case question of applicability of section 25F of I.D. Act, does not arise at all.

7. Hence my award is that the concerned workman was not removed from service hence question of its being illegal does not arise. Consequently the concerned workman is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 18 मार्च, 1997

कां०आ० 936.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी०बी०सी० एल० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-03-97 को प्राप्त हुआ था।

[सं०एल-30011/29/87/-डी/बी-3/आई०आर (सी-आई)]

श्रज मोहन, डेस्क अधिकारी

New Delhi, th: 18th March, 1997

S.O. 936.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.P.C.L. and their workmen, which was received by the Central Government on 17-3-97.

[No. L-30011/29/87-D.III(B)|IR(C-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 146 of 1988

PARTIES :

Employers in relation to the management of Budge Budge Installation of M/s. B.P.C.L.

AND

Their Workmen

PRESENT :

Mr. Justice K. C. Jagadeb Roy, Presiding Officer.

APPEARANCE :

On behalf of Management.—Mr. Subhankar Sen, Deputy Manager with Mr. N. Rajmohan, Senior Manager (Employees Relation) and Mr. P. K. Mallick, Manager (Industrial Relations).

On behalf of Workmen : Mr. M. K. Roy Chowdhury, Secretary of the Union with Mr. A. K. Nath, Organising Secretary and Mr. D. K. Pal, Asstt. Secretary of the Union.

STATE : West Beengal INDUSTRY : Petroleum

AWARD

By Order No. L-30011/29/87-D.III(B) dated 24/26 February, 1988 the entral Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of M/s. BPCIL, Budge Budge Installation in dismissing the following 8 workmen from services with effect from 24-1-1985 is justified? If not, what relief the concerned workmen are entitled to

S/Shri

1. Prabir Mukherjee,
2. Sudarsan Mishra,
3. Anil Samaddar,
4. Shaikh Ramjan,
5. Panch Kari Adak,
6. Sudhansu Roy,
7. Mahesh Mandal,
8. Ashok Kumar Dey."

2. The workmen and the management filed their written statements, followed by a rejoinder of the workmen.

3. The management has exhibited 36 documents before this Tribunal and 4 acknowledgement receipts marked Exts. M-7|1, M-7|B, M-7|C and M-7|D. The workmen have filed altogether 3 documents as their exhibits, out of which Ext. W-1 and W-2 are memorandum of settlement between the employer and the workmen of Bharat Petroleum, Calcutta and Ext. W-3 is a show cause notice against Shri Biswas.

4. This reference is of the year 1988 and has been dealt with by two of my predecessors in office. By order dated 16-5-1991 on the prayer of the parties the then Presiding Officer passed his order for hearing the validity of the domestic enquiry first and directed that other preliminary issues were to be heard with the merits of the case. But later on he passed another order dated 18-6-1991, as follows :

"After hearing the parties and after considering the submissions of the management, I direct that the preliminary issue raised by the management in their written statement will be considered along with the merits of the case."

5. The management did not challenge this order dated 18-6-1991 and being satisfied, adduces evidence before the Tribunal both on the preliminary issue as well as on merit and the deposition of the management witness started on 18-8-91 to be completed on 16-7-1994, after various adjournments in between. The workmen led no evidence before this Tribunal.

6. The case of the workmen in their pleadings are summarised below :

These 8 workmen namely Mahesh Mondal, GWM, Lubs Section, Sudarsan Misra, Boiler Attendant, Lubs Section and Anil Kumar Samaddar, Gauger II on probation, Tank Farm No. 1 of Budge Budge Installation were chargesheeted on 8th December, 1983 as per Ext. M-3 as quoted below :

"1. Since 4th of November, 1983 you are regularly holding meetings and making anti-management slogans and violent demonstration inside the Installation and also in front of the gates and indulging in various subversive and disciplinary activities along with a group of outsiders.

2. You, as a prime mover, are inciting and instigating a section of workmen not to do any work and as a result of such incitement and instigation a section of workmen are not doing any work since 4th of November, 1983 causing dislocation of Company's work.

3. As a result of your incitement and instigation a large section of workmen submitted mass sick leave and casual leave applications for the 21st November, 1983 and remained absent for the above two days in a concerted manner paralysing company's work completely and causing huge loss to the company.

743 GT/97-14.

4. Along with a group of outsiders and anti-social elements you had also been picketing outside the gates on the 21st and 22nd November, 1983 and threatening and intimidating loyal and willing workers with dire consequences in the event of their entering the work place which resulting in total disruption of production and deliveries of all petroleum products on the above dates. You had covered your absence for the above two days by submitting application for casual leave/sick leave.

5. You have also been inciting the workmen to stage illegal and unjustified strike and as a result of your incitement and instigation a large section of workmen are participating in the illegal and unjustified strike since 5th December, 1983 and they are regularly, after recording their attendance, leaving their place of work.

Your aforesaid acts are serious misconduct under the company's Standing Order. You are asked to show cause in writing within 3 (three) days from the date of receipt of this letter which severe disciplinary action should not be taken against you."

Prabir Kumar Mukherjee, Filing Peon on probation, Panch Kari Adak, Gauger I Lubs Section and Sudhanshu Roy, GWM, Lubs Section also of Budge Budge Installation were issued with the chargesheet dated 8-12-1983 which is marked Ext. M-28 which is quoted below :

"1. Since 4th of November, 1983 you are regularly holding meetings and making anti-management slogan and violent demonstration inside the Installation and also in front of the gate and indulging in various subversive and disciplinary activities along with a group of outsiders.

2. You, as a prime mover, are inciting and instigating a section of workmen not to do any work and as a result of such incitement and instigation a section of workmen are not doing any work since 4th of November, 1983 causing dislocation of company's work.

3. As a result of your incitement and instigation a large section of workmen submitted mass sick leave and casual leave applications for the 21st November, and 22nd November, 1983 and remained absent for the above two days in a concerted manner paralysing company's work absolutely and causing huge loss to the company.

4. Along with a group of outsiders and anti-social elements you had also been picketing outside the gates on the 21st and 22nd November, 1983 and threatening and intimidating loyal and willing workers with dire consequences in the event of their entering the work place. This resulted in total disruption of production and deliveries of all petroleum products on the above dates. You had covered your absence for the above two days by submitting ESI medical certificate and sick leave application.

5. You have been threatening other fellow workmen of dire consequences for their reporting to duty on the 21st and 22nd November, 1983.

6. You have also been inciting the workmen to stage illegal and unjustified strike and as a result of your incitement and instigation a large section of workman are participating in the illegal and unjustified strike since 5th December, 1983 and they are regularly, after recording their attendance, leaving their place of work.

Your aforesaid acts are serious misconduct under the company's Standing Order. You are asked to show cause in writing within

3 (three) days from the date of receipt of letter why severe disciplinary action should not be taken against you."

Ashok Kumar Dey, Watchman II of Budge Budge Installation was issued with the charge-sheet dated 8-12-1983 which is marked Ext. M-29 and S. K. Ramjan, Sardar (P), Lubs Section, Budge Budge Installation was issued with the charge-sheet dated 8-12-1983 marked Ext. M-2 and are quoted below:—

EXHIBIT M-29

- "1. You, as a prime mover, are inciting and instigating a section of workmen not to do any work and as a result of such incitement and instigation a section of workmen are not doing any work since 4th of November, 1983 causing dislocation of company's work.
2. As a result of your incitement and instigation a large section of workmen submitted mass sick leave and casual leave applications for the 21st November and 22nd November, 1983 and remained absent for the above two days in a concerted manner paralysing company's work completely and causing huge loss to the company.
3. You, on 21st November, 1983 (Which was weekly off day), were found inciting and instigating other workmen in front of the CPT gate No. 4 and Bulk Transport gate shouting slogans along with others and obstructed and intimidated other willing workmen to enter the Installation premises. You had also threatened them of dire consequences in the event of their entering the Installation for work which resulted in total disruption of production and deliveries of all petroleum products.
4. You have also been inciting the workmen to stage illegal and unjustified strike and as a result of your incitement and instigation a large section of workmen are participating in the illegal and unjustified strike since 5th December, 1983 and they are regularly, after recording their attendance, leaving their place of work.

Your aforesaid acts are serious misconduct under the company's Standing Order. You are asked to show cause in writing within 3 (three) days from the date of receipt of this letter why severe disciplinary action should not be taken against you."

EXHIBIT M-2

- "1. Since 4th of November, 1983 you are regularly holding meetings and making anti-management slogans and violent demonstration inside the Installation and also in front of the gate and indulging in various subversive and indisciplinary activities alongwith a group of outsiders.
2. You, as a prime mover, are inciting and instigating a section of workmen not to do any work and as a result of such incitement and instigation a section of workmen are not doing any work since 4th of November, 1983 causing dislocation of company's work.
3. As a result of your incitement and instigation a large section of workmen submitted mass sick leave and casual leave applications for the 21st November and 22nd November, 1983 and remained absent for the above two days in a concerted manner paralysing company's work absolutely and causing huge loss to the company.
4. Along with a group of outsiders and anti-social elements you had also been picketing outside the gates on the 21st and 22nd November, 1983 and threatening and intimidating loyal and willing workers with dire consequences in the event of their entering the work place, which resulted in total disruption of production and deliveries of all petroleum products on the above dates. You had covered your absence for the above two days by submitting application for Casual Leave on 23-11-1983.
5. You have been threatening other fellow workmen of dire consequences for their reporting to duty on the 21st and 22nd November, 1983.
6. You have also been inciting the workmen to stage illegal and unjustified strike and as a result of your incitement and instigation a large section of workman are participating in the illegal and unjustified strike since 5th December 1983 and they are regularly, after recording attendance, leaving their place of work.
7. On 1st December, 1983 at about 8.30 a.m. you along with some workmen, forcibly entered the room of Dy. Installation Manager (Admn.) and incited the workmen to gherao him. As a result of such incitement and instigation the workmen gheraoed the said officer and kept him confined upto 4.30 p.m. and did not allow him to attend to any office work and also shouted loudly and made disorderly behaviour with objectionable remarks and undermining the position.
8. On 2nd December, 1983 at about 8.30 a.m. you forcibly entered the room of Installation Manager along with some other workmen, shouted slogans and squatted in his room in violation of the order of the Hon'ble High Court dated 1-12-83.
9. On 3rd December 1983 at about 8.30 a.m. you again gheraoed the Dy. Installation Manager (Adm) and squatted in his room in violation of the order of the Hon'ble High Court

dated 1-12-83. The said officer was rescued at the intervention of the Port Police, at about 10.30 a.m.

"Your aforesaid acts are serious misconduct under the company's Standing Order. You are asked to show cause in writing within 3(three) days from the date of receipt of this letter why severe disciplinary action should not be taken against you."

7. The workmen challenged this chargesheets being without any authority since Shri P. K. Mukherjee, Installation Manager (Management Witness No. 4) under whose signature they were issued, had no authority to issue such chargesheets, he not being the appointing or dismissing authority. That apart, the allegations on the basis of which the charges were made did not show any misconduct have been committed by the concerned workmen and no reference was made in the said charge if any of the allegations constituted misconduct within the meaning of the Standing Orders dated 3-10-1978 which was in vogue at the material time. According to the workman no reference was made to any specific clause of Paragraph 25 of the Standing Orders showing that the misconduct within the meaning of that particular clause/clauses had been committed by the delinquents, besides whatever allegations had been made in these chargesheets are vague and non specific. Three of the eight workmen who were not charged with any allegation for having committed any wrongful act till 1-12-1983, subsequently charged for incidents having been committed after 4-12-1983 which would imply that the management was vindictive against the union leaders and by this process wanted to victimise them. The allegations in the chargesheets against any of these 8 workman as would be evident from different chargesheets is that these 8 workman were prime movers of the agitations and indiscipline that jeopardised the functioning of the office and the installation, particularly when the demands which were raised by the union concerned were justified demands of the workers.

8. The allegations of the workmen against the fairness and validity of the enquiry is that the Enquiry Officer exceeded his jurisdiction in holding the enquiry since the incidents which were stated in the chargesheets dated 8-12-1983, already referred to earlier, related to the period of incidents from 4-11-1983 to 5-12-1983, whereas the Enquiry Officer extended it's enquiry from the period October, 1983 to September, 1984. Before the Enquiry Officer the witnesses for the management only read out prepared statements and made statements as coached. As such, the enquiry was a mere formality and was vitiated being perverse and an outcome of a premeditated design and the Enquiry Officer did not acted fairly and properly in holding the enquiry proceeding. It was further urged by the workmen that the Enquiry Officer had not given a date on the report containing his findings while submitting it. The findings given by him was not on his own but as was dictated by some Managers, and the Enquiry Officer found the workmen guilty of the misconduct, while no misconduct was alleged, nor any enquiry for misconduct was done. As such, the enquiry was futil enquiry being not for any miscon-

duct. According to the workman, therefore, these domestic enquiries and the findings were illegal, perverse and inoperative.

9. Coming to the merits of the case, the workmen have urged before this Tribunal that the demands of the workmen was (a) that the retiring age of the workman should be raised from 58 to 60 years and (b) that employment of one of the dependants of the retiring employee should be permitted by the management. These demands of the workmen are very lawful and unreasonable and did not lack any rationality to treat them unlawful and unreasonable demands, though according to the allegation of the management these 8 workmen were prime movers of the illegal meetings and illegal strike including stoppage of work of the workmen who had also participated in such illegal and wrongful conduct alleged against these 8 workmen. No action has been taken against any one of the workmen excepting the 8 workmen who are trade union leaders. The shole action of the management accordingly cannot be justified patently acts of victimisation against the workmen. The workmen accordingly contended and prayed that this punishment should be quashed as illegal and vindictive and an act of victimisation and the workmen should be placed back to their postings with full back wages and other benefits.

10. The case of the management as is projected in their written statement that these workmen have actually no case. The union who has sponsored the case of these workmen as the dismissed workmen were members of that union which is known as Petroleum Employees Union which had its registration in Bombay but extended its activities to Eastern Region towards the end of October 1983. There are two unions namely Petroleum Workers Union in the Eastern Region who are representing the cases of the workmen in clerical categories only from 1946 but latter it take up the cases of both clerical and labourers since 1962. Another Union namely Bengal Oil and Petroleum Workers Union has been the Workmen's union for labour category in the Calcutta Industrial area since 1946. A settlement between the management, its employees and the Additional Labour Commissioner, West Bengal was signed in conciliation under Section 12(3) of the Industrial Disputes Act, 1947 on 3rd October 1978 whose operational period covered a period of four years from 1st January 1978. In the said settlement the age of retirement of the workmen had been uniformly fixed at 58 years on expiry of the operation of the aforesaid settlement dated 3rd October, 1978, the Corporation negotiated and arrived at in their tripartite settlement on 31st January 1983. The Petroleum Workers Union and the Bengal Oil and Petroleum Workers union representing the workmen both in clerical and labour categories signed the settlement mentioning that the retiring age of 58 years would be continued. The settlement would remained binding upto 31st May 1985 unless terminated earlier and that during the period of operation, there would be no demand by the workmen and the employees. Since the present union namely Petroleum Employees Union, as already stated, during the operation of the settlement, from the end of October 1983, raised the two demands. Since the management was not in a position to exceed to these illegal

and unjustified demands, a section of the workmen in the labour category took the assistance of anti-social elements from outside and started violent agitation. Since this agitation was violent, the management of Budge Budge Installation was forced to move the Executive Magistrate, Alipore Court, Calcutta a petition under Section 144(2) of the Cr. P.C. and moved the Hon'ble High Court of Calcutta for a direction to the Police authorities to stop obstruction, criminal intimidation and other activities at Budge Budge Installation. The learned Magistrate in the 144 proceeding, according to the management, passed the order directing the police authorities to ensure that no wrongful act is done by the agitating workman and the incoming staffs of the Corporation be not disturbed by any one, which order the management exhibited as Ext. M-34.

11. Management not being satisfied with the situation and finding no signs of improvement, moved the Hon'ble High Court of Calcutta for seeking a direction to the Police authorities to stop obstruction, criminal intimidation and other illegal activities at the Budge Budge Installation. The Hon'ble High Court while expressing their view that the free flow of petroleum products is essential to maintain the life of the city, the Court directed non-interference to the flow of such products to the Calcutta area. (The order of the Hon'ble High Court of Calcutta is exhibited as M-34 before this Tribunal). According to the management the situation did not improve. The supply of essential petroleum products was severely disrupted causing tremendous hardship to the public at Calcutta and nearby places.

The situation worsened when a section of the workmen illegally gheraoed the Deputy Installation Manager on 1-12-1983 and the Installation Manager on 2-12-1983 which disrupted their normal duties and constrained to remain them in their office and the Police had to intervene. On and from 5-12-1983 some of the ring leaders resorted to illegal stay-in-strike without prior notice. The workmen after recording their attendance did not work on machines or jobs assigned to them, which disrupted delivery schedules and some of the willing workers had to abandon their jobs at vital operational work, like fire service, water pumping, running generator etc. which jeopardised the normal operation. They further refused and forced the others to refuse to work overtime.

A notice was given to the workmen on 3-12-1983 (Ext. M-35) under the signature of the Installation Manager, Mr. E. K. Mukherjee addressed to all the workmen requesting the workmen to desist from illegal and disciplinary and subversive activities and not to disrupt the normal work of the installation. The management had therefore no option but to issue the chargesheets on 8-12-1983 against the 8 workmen concerned in the schedule of reference. According to the management the certified Standing Orders that was in force on the material date was that of 1951 which has application to all the workmen, including the dismissed workman.

According to the management, a domestic enquiry was conducted after proper notice to each of the workmen telling the charges levelled against them and providing full opportunity to the workmen to defend themselves against the allegations and the management followed all principles of natural justice at the enquiry.

Two of these chargesheeted workmen namely Mahesh Mondal and Anil Samaddar who were chargesheeted on the similar charges on the same day by one notice, committed further acts of misconduct during the pendency of the enquiry, for which they had to be suspended and on the conclusion of the enquiry, the Enquiry Officer submitted report separately, holding the chargesheeted workmen guilty of the charges levelled against them and forwarded the same to the management, who after considering the report of the Enquiry Officer, in considering the gravity of the charges and taking into consideration the past record of each of them, did not find any extenuating circumstances in their favour and passed the order of dismissal against all these 8 workmen by its order dated 24-1-1985 under the signature of Shri Tej Singh, General Manager (S and D).

According to the management, the workmen even though given opportunity, did not examine any witness at the enquiry and even though an appeal is provided against this order of dismissal, no appeal has been preferred by them. On the other hand, the union raised a dispute before the Labour Commissioner, after which the matter has been referred to this Tribunal for adjudication. The three orders dismissing all the 8 workmen have been collectively marked Ext. M-23.

12. An enquiry cannot be said to be properly held, unless (i) the employee proceeded against, had been informed clearly of the charges levelled against; (ii) the witnesses are examined ordinarily in the presence of the employee in respect of the charge; (iii) the employee is given a fair opportunity to cross-examine the witnesses; (iv) he is given a fair opportunity to examine witnesses including himself in defence, if it is so assessed on the relevant matter; and (v) enquiry officer records his finding with reason for the same in his report.

13. The following factors are important in framing chargesheet :

- (a) Chargesheet must be accurate and specific ;
- (b) Signed by competent authority, otherwise the delinquent may refuse the chargesheet ;
- (c) Unsigned or a chargesheet signed by the wrong authority, besides being delay, will forewarned the employee to the dislike of the competent authority ;
- (d) In framing the chargesheet will be avoided ;
- (e) It is necessary that chargesheet should contain all the charges. However, there is no limit to number of charges ;
- (f) Offence should be stated in relation to its place, date, item and briefly the manner ;
- (g) Where Standing Orders are used, Standing description of the misconduct should be worded in the chargesheet ;
- (h) The time given to the delinquent for submitting explanation, after service of the chargesheet, is normally 2 days ;
- (i) The chargesheet may mention the maximum punishment.
- (j) There should be a clear proof of issue and delivery of chargesheet to the workman, so that the workman may not at a letter stage, deny its delivery.

A reference can be made to the case of Kapoor Singh v. Union of India, AIR 1956 (Punjab) 58.

14. In determining if the principle of natural justice had been followed in holding the enquiry, it is for the Tribunal to see if the basic requirements for this, had been satisfied namely there was a notice of the case to the delinquent and a reasonable opportunity to explain had been afforded to him.

15. In the present case, all the delinquents were served with their charges, had been given opportunity to explain, which they replied denying the allegations. Opportunity had also been provided to them to produce their own evidence, including examining themselves in support of defence, which none of the workmen had availed. They had also been

given opportunity to cross-examine the management witnesses at the enquiry. As such, there was no violation of these procedures which are required under the principle of natural justice. It is not specifically alleged and proved by the workmen before this Tribunal if they are not served with the report of the Enquiry Officer, even on their asking, which could have vitiated the proceeding. But this having not been alleged and proved, this Tribunal need not go into that academic proposition. But the law is well settled that the enquiry not only should be consistent with the rules of natural justice, but must also conform to the procedure contained in the statutory rules. A reference can be made to the case of *Luxmi Shankar Pandey v. Union of India and Anr.* reported in 1991 (62) FLR 652 (Supreme Court).

16. The Standing Orders dated 30-5-1951 which has been filed before the Tribunal alongwith the enquiry proceedings, contain in Standing Order 25 the various acts and omissions (25 items in all) which would constitute misconduct within the meaning of Standing Orders. In Standing Order 26 it has been specifically stated that any employee who has been adjudged guilty of the misconduct as defined in Standing Order 25 is liable to be (a) warned, (b) suspended with loss of pay etc., (c) dismissed without notice or any compensation in lieu of notice depending on the seriousness of the offence and after following the procedure contained therein. The Standing Order 26 is quoted below :

"26. WARNING, SUSPENSION, DISMISSAL OR DISCHARGE OF WORKERS AND RULES RELATING THERETO :

Any employee who is adjudged to be guilty of misconduct as defined in Standing Order No. 25 is liable to be :

- (a) Warned—or
- (b) Suspended with loss of pay by an order in writing by the Manager/Engineer/Superintendent for a period not exceeding four days—or
- (c) Dismissed without notice, or any compensation in lieu of notice.

depending on the seriousness of the offence and after the following procedure has been observed :—

- (i) When a worker is considered by the Assistant or Foreman-in-Charge of his department to be guilty of misconduct a written shall be framed against the worker in fault, and it should be handed over to him specifying the facts on which the charge is based in good time to enable him to prepare his defence.
- (ii) Then a date shall be fixed for enquiry sufficiently ahead with due notice to the employee concerned. An opportunity will be given to him to defend himself either by himself or by official of the Union or by a bonafide lawyer. He would be given facilities to examine and cross-examine the witnesses.
- (iii) If the charge is disproved no punishment shall be inflicted upon the except where the enquiring officer of the Company entertains a grave doubt about the honesty of the worker in which case he may be warned or discharged with 14 days/one month's notice or with 14 days/one month's wages and D.A. in lieu of notice, in the case of daily-rated/monthly-rated workers respectively. If the charge is proved, the employee shall be given such punishment as the offence proved justified.
- (iv) The worker concerned may appeal against the recommendation of the Company's Officer who holds the enquiry both on merit and punishment to the Manager/Engineer/Superintendent who shall pass the final orders after hearing the worker concerned and examining the materials on the record. In all cases of punishment, previous record, if any, and other extenuating circumstances shall be taken into account.
- (v) Before a worker is awarded extreme punishment of dismissal, the Manager/Engineer/Superintendent should consider whether a lighter punishment would be sufficient in the circumstances of the case.

- (vi) In the case of grave misconduct and dishonesty affecting the interests of the industry, the worker may be suspended without any remuneration whatsoever for the period of suspension pending enquiry; but in no case before the specific charge is framed against him in writing. If he is exonerated of the charge, he shall be reinstated with full wages and other benefits he would have been entitled to during the period of suspension.

The Company, in addition to the punishment awarded under this Standing Order reserves to itself the right to prefer charges and/or take legal action against the worker.

In the event of a worker being adjudged by any court of law to be guilty of any offence connizable under any law in force for the time being, his services shall be liable to termination without notice or any compensation in lieu of notice, from the date of sentence being passed. The Company may also suspend the worker during the period he remains in the police custody or during the period of his trial by a court of law and no remuneration shall be paid or be due to him for the period of suspension."

17. In the present case, the procedure indicated therein has not been followed. None of these workmen is considered by the Assistant or Foreman In-Charge of the department to be guilty of misconduct and the workmen never received any written chargesheet on the basis of that. Here, the initiation was done by the Installation Manager. The very scheme of Standing Order 26, read with 25, contemplates that the misconduct alleged to have been committed under the Standing Orders must be of a personal nature, finding particular workman individually having committed any act of the enumerated 25 items contained in Standing Order No. 25, which being considered by the Assistant or Foreman-in-Charge of their department being guilty of a misconduct, the chargesheet should be initiated, which has not been followed in this case. Therefore, the Standing Order No. 26 has not been strictly followed, which is required by law to be so followed.

18. Coming to the chargesheet itself, it is issued under the signature of Shri P. K. Mukherjee, Installation Manager. I have already stated while discussing the broad proposition that a chargesheet should be issued under the signature of the competent authority. A competent authority is the disciplinary authority who in turn is the appointing authority. The workmen in their written statement in paragraph 27 submitted that Shri P. K. Mukherjee, the then Installation Manager was not the competent authority to issue the chargesheets. This statement has not been denied by the management in their evidence. On the other hand, MW-1 Shri S. K. Roy has stated that the Installation Manager was neither the dismissing nor the appointing authority. He, however, stated in his deposition that he did not agree with the suggestion that the Installation Manager could not have issued the chargesheet. He had not referred to any authority in the Standing Orders or any other order whereunder the Installation Manager, even though not being appointing or dismissing authority, had the power to issue the chargesheets. Even Shri P. K. Mukherjee who examined himself in the Tribunal and deposed on 14-7-1983 did not say anything to substantiate the contention of Shri S. K. Roy, MW-1 that he had the authority to issue the chargesheets and said nothing contrary to what the workmen alleged in paragraph 27 regarding his absence of authority in issuing the chargesheets, not being the dismissing and appointing authority. I may further add that the management however stated in their additional written note of argument that the expression "Manager" occurring in the Standing Orders, also includes the Installation Manager. This does not help the management in any way because the management has not yet proved that the Manager of the establishment was the disciplinary authority for the workmen concerned and as a matter of fact it was the General Manager (S and D) who actually passed the impugned order of dismissal. Therefore, even though it is a fact that the Manager includes the Installation Manager that does not justify the contention of the management that the Installation Manager had the authority to issue the notice of charge under his signature.

Accordingly, I hold that the chargesheet was not issued lawfully by the upper authority, which itself is a ground to hold that the entire enquiry was vitiated.

19. Coming to the framing of the charge, as I have already indicates, that the allegations made in the chargesheets must refer to the particular misconduct or conducts enumerated in the Standing Order No. 25 so that the workmen had the opportunity to prepare their defence against the charge. All the charges have already been quoted in this Award concerning 8 workmen. All these allegations are not very specific, but in general terms, alleging that each of these workmen were participating alongwith others in holding meetings and anti-management slogans since 1st December, 1983 and inciting and instigating the workmen not to do any work since 4th November, 1983. In the chargesheet against Sk. Ramjan in paragraph 5 it has been mentioned that he had been threatening other fellow workmen of dire consequences for reporting duty on 21 and 22 November, 1983. In paragraph 7 of the chargesheet against him it was alleged that on the 1st December, 1983, he and other workmen forcibly entered the room of Deputy Installation Manager (Administration) and incited the workmen to gherao him. He was only alleged to have incited and instigated the workmen to gherao Deputy Installation Manager. It was further alleged that he shouted loudly and resorted to disorderly behaviour with objectionable remarks. The disorderly behaviour and objectionable remarks have not been stated in the chargesheet. On the 2nd December, 1983, it was alleged that at 8.30 a.m. he forcibly entered the room alongwith other workmen and squatted in the room of the Installation Manager in violation of the order of the Hon'ble High Court dated 1-12-1983. Nothing has been stated what was the direction of the Hon'ble High Court dated 1-12-83, which these workmen had actually violated. The Order of the Hon'ble High Court is stated to be on 1-12-1983 and the alleged occurrence was on the 2nd December, 1983. It is also not stated if these workmen had knowledge of the High Court's order dated 1-12-1983 or if he was a party to the case. Regarding 3-12-1983 it was also alleged that he had gheraoed the Installation Manager and squatted in his room in violation of the Hon'ble High Court's order dated 1-12-1983 when the said officer was rescued at the intervention of the Port Police at 10.30 a.m.

20. The Standing Orders do not make out a distinction between the gross misconduct and minor misconduct, though in Standing Order 26 it has been stated that a delinquent can be warned or suspended with loss of pay or be dismissed depending on the seriousness of the offence.

21. In the enquiry against Sk. Ramjan, Shri G. S. Banerjee appeared on behalf of the management and Shri Manas Kumar Roy Chowdhury was appointed as the representative of the workmen. As I have already stated, the workman choose not to appear at the enquiry and had intimidated the Chairman and Managing Director, Bharat Petroleum Corporation by his letter dated 14.7.1984 about his inability to attend the enquiry due to his personal difficulties. Nothing has been stated by the management what was the basis or information or if there was any report of any supervisor or any other officer or responsible staff of the management alleging involvement of this particular workman in the alleged actions mentioned in the chargesheet. Accordingly, the existence of the report on the basis of which the charge was framed is not known and admittedly copy of the same had not been supplied to the workman, which is also necessary for preparing his defence.

22. I went through the report of the Enquiry Officer as submitted by Shri Mazumder which is not dated but forwarded the same to the authority and informed the Installation Manager by his letter dated 17 October 1984 stating that he had conducted the enquiry on his request and was submitting the report for his perusal. This confidential letter of Shri Mazumder to the Installation Manager dated 17 October 1984 occurs at page 864 of the bound volume of documents filed by the management, though not marked exhibited. This enquiry report itself has taken into account certain over acts of 5th December, 1983 which was not referred to in the chargesheet. The Enquiry Officer has also not stated how any of these charges enumerated in 9 different paragraphs of the chargesheet, have been proved by evidence of the management. The slogans referred to by the witnesses were "INTUC JINDARAD SURRATA MIKHERIFE JINDARAD. JAI HIND. P.E.U. JINDARAD". It referred to also strike between 5th December, 1983 and

10 December, 1983 which has nothing to do with the present charge against Sk. Ramjan. It was also the statement of Witness No. 4 that the agitation was in respect of increase of retirement age from 58 to 60, job for the sons of the employees and employment for casual/contract labour etc. He stated that around middle of October, 1983, there were gate meetings which were held before and after work at CPT gate No. 4 and 6 when Sk. Ramjan took leading part. He stated from 4 November, 1983 employees due to retire on 31-12-1983 stopped working after marking their attendance and from 9 November 1983 most of the employees stopped working overtime, which at times is necessary for doing various jobs. As per Witness No. 1 the gherao of installation officials took place on 1st, 2nd and 3rd December, 1983 under the leadership of Sk. Ramjan. While the gherao was at 8.40 a.m. on 1st December 1983 and on the 2nd December 1983 the Installation Manager was gheraoed and the Installation Manager was again gheraoed on 3rd December 1983 till 10.30 a.m. Who are the installation officials gheraoed on 1st December, 1983 has not been stated by him. It is also not stated if on the 3rd December 1983 the Installation Manager was gheraoed from 8.30 a.m. and it was also not stated if the gherao was started at 8.30 a.m. on 2nd December 1983 as alleged in the chargesheet. There is no evidence to show that this workman forcibly entered the room and squatted the room of the Installation Manager and what was the merit of the High Court's order, if the Hon'ble High Court directed Ramjan and others not to do a particular thing.

23. Therefore, by reading the enquiry report and the evidence on record, I find that the finding of the Enquiry Officer that the workman was guilty of the charges was not based on any positive materials in support of the charge indicated in the chargesheet and the finding was mechanically arrived and he found the workman guilty of the charges which were according to him gross misconduct under clauses 25(b), (c), (h), (k), (l), (n) and (r). While the evidence was that the meetings were held at the gatt, as is evident from the evidence of the Management Witness No. 2 and when it was also stated by the same witness that the picketeers who quarshed/threatened the willing workers to enter into the installation. There is no specific allegation that Sk. Ramjan was doing this personally though it was stated that he was the leader of the workmen. From the evidence of the Management Witness No. 2 the meetings were not held inside the premises. So, holding the man guilty under clause (r) which is only for holding meetings inside the installation without previous permission of the authority, could not have been brought home. So is the clause (k), when there is no allegations of drunkenness, riotousness, disorderness etc. All these clauses were never referred to, as I have already stated in the chargesheet. I, therefore, hold that this enquiry report was utterly perverse.

24. Coming to the cases of Mahesh Mondal, Sudarshan Mishra and Anil Kumar Samaddar, all these 3 workmen were charged for holding meetings since 4th November 1983 and for violent demonstration inside the installation as well as in front of the gates and indulging in various subversive and indisciplinary activities alongwith a group of outsiders. The details of subversive and indisciplinary activities and what was the nature of the violent demonstration have not been stated in paragraph 1 of the chargesheet. Under paragraph 2 of the chargesheet each of them were alleged to be a prime mover, inciting and instigating the workmen not to do any work since 4th November 1983 causing dislocation of Company's work. They were jointly charged for inciting and instigating large section of workmen to go on mass leave on 21 and 22 November, 1983. All the three have been charged of picketing at the gates etc. on 21 and 22 November, 1983 and intimating willing workers with dire consequences if they enter the place of work,

resulting in total disruption in production. They were also charged jointly for inciting the workmen to stage illegal and unjustified strike. As a result of which a large section of workmen have joined the unjustified strike since 5th December 1983 and after recording their attendance leave their place of work.

The chargesheet never referred to any report of any officer or supervisor of the installation, on the basis of which this chargesheet was made, nor that the chargesheet referred to any particular clause of Standing Order No. 25 which was violated by these conducts. All the 8 workmen including these 3, in their reply had denied the charges. Here also the workmen did not participate in the enquiry though one Shri Manas Kumar Roy Chowdhury appeared to represent the workmen and given the opportunity to cross examine the management witnesses as was done in the case of S. K. Ramjan.

25. I have gone through the recorded statements of the witnesses for the management in the domestic enquiry against these workmen as well as enquiry report submitted by Shri S. P. Mazumder the Enquiry Officer. This enquiry report is also not dated by the Enquiry Officer when he completed the enquiry but it had a covering note addressed to the Installation Manager, to whom the Enquiry Officer submitted his findings for the perusal of the Installation Manager, which is marked Ext. M-16 before this Tribunal. In this case also the workmen had not chosen to appear and had intimated by their letter dated 14 October 1984 addressed to the Chairman and Managing Director, Bombay, expressing their inability to attend the enquiry due to their personal difficulties.

26. The enquiry report does not show how each of these charges has been established by specific positive evidence on that score from the side of the management. The report also shows that he was satisfied that the misconducts under Clause 25(b), (c), (h), (k), (1) (n) of the Company's Standing Orders was committed by these 3 workmen. Apart from the fact that the chargesheet never referred to the misconduct as per these clauses, the Enquiry Officer has also not stated how each of these clauses have been satisfied on the evidence that came before him in the enquiry; particular in respect of the charges indicated in the chargesheet. I, accordingly hold that this report of the Enquiry Officer is also perverse as based on no materials to suggest the findings.

27. Other three workmen namely, Prabir Kumar Mukherjee, Panch Kari Adak and Sudhansu Roy, the chargesheet is virtually the same as has been for Mahesh Mondal, Sadarshan

Mishra and Anil Kumar Samaddar, excepting that in the cases of Prabir Mukherjee, Panch Kari Adak and Sudhansu Roy there is one extra paragraph, paragraph 5, wherein they had been charged of threatening other fellow workmen of dire consequences for their reporting to duty on 21 and 22 November, 1983.

28. I went through the evidence recorded at the enquiry and the enquiry report filed by Shri Mazumder the Enquiry Officer in respect of these 3 workmen. The enquiry report is marked Ext. M-20. This enquiry report is also not dated by the Enquiry Officer, though the covering letter under which it was sent to the Installation Manager, Budge Budge is dated 25-9-1984. The report was sent to the Installation Manager for his perusal.

In the enquiry for these 3 workmen, as in other cases, Shri G. S. Banerjee appeared as management representative, whereas Shri Manas Kumar Roy Chowdhury appeared as workmen's representative. Here also the workmen did not choose to lead any evidence, though they had their representative present in the proceeding to cross-examine the management witnesses. According to the Witness No. 1 for the management, since middle of October 1983 meetings were held at the gate after work and from 4 November 1983 a section of the workmen suddenly stopped working and slogans were being shouted inside the installation during the working hours. This does not refer to these three workmen concerned specifically but the workman in general, though the witness stated that these three workmen were the labour leaders. The slogans they were shouting were as follows :—

"INQILAB JINDABAD, AMADER DABI MANTE HOBE, INTUC JINDABAD, MANAS KUMAR ROY CHOWDHURY JINDABAD, MANAGERER KALO HAT GUNRIA DAO, MANAGEMENT HUSHIAR, AGREEMENTER DHAPPABAJI CHOLBENA CHOLBENA".

From the entire statements of the 3 witnesses produced by the management, I do not find any specific evidence had been led against any of these three workmen in holding that any of these charges enumerated in the chargesheet had been satisfied, though the witnesses had stated that there was labour agitation for their demands and these three workmen were their leaders. There is no specific materials against them why these three persons to be singled out to be proceeded with and not the rest of the workmen, if these conducts at all amounted to any misconduct under the Standing Orders.

29. The Enquiry Officer also held that these three persons were guilty of the charges under clause 25 (b), (c), (k), (l), and (r) of the Company's Standing Order, even though as already stated by me, the chargesheet never referred to pointedly to any of these clauses of the Standing Order No. 25. Accordingly, I find that the finding of the Enquiry Officer is not based on any cogent materials and therefore it is nothing but perverse.

30. Coming to the last workmen concerned, Ashok Kumar Dey, the chargesheet was also on the same date 8-12-1983 as in other cases and he was charged for inciting and instigating a section of workmen not to do the work and as a result of which the workmen have not been doing work since 4 November, 1983 and he was charged for being a prime mover of that. He was also charged for his incitement and instigation to a large section of workmen who submitted mass sick leave and casual leave application for 21 and 22 November 1983 and absented from work paralysing the Company's work and on 21 November 1983, it was alleged that he incited and instigated the workmen and shouted slogans alongwith others, obstructing and intimidating other workmen to enter the installation for work and threatened them with dire consequences if they enter the installation for work. He was also charged for instigating the workman for staging an illegal and unjustified strike since 5 December 1983 and they have regularly leaving their place of work, after recording their attendance.

31. I went through the entire enquiry report as well as the depositions recorded at the enquiry. Here, the Enquiry Officer found the workman guilty of the charge for misconduct under clause 25 (b), (c), (k), (l), (n) and (r) of the Company's Standing Order, even though the chargesheet never referred to these clauses. Here again, I find that an approach by the Enquiry Officer not to justify any of the charges by considering the evidence of the management witnesses, who deposed in their favour, but has nevertheless found the workman guilty of the charges. According to the statement of Management Witness No. 2, Shri Ashok Kumar Dey was taking active part in making the demands of the workmen, no positive evidence has been led justifying any of the charges to have been proved against Shri Ashok Kumar Dey, though from the statement of the

witnesses a general impression is created that the workmen were making their demands and Shri Dey was one of their leaders and was taking active part in making such demand. Accordingly, I also find that this enquiry report is utterly perverse.

32. The enquiry reports numbering 4 covering these 8 workmen were based on no materials to justify specifically the allegations made in the charge-sheets and the charge-sheets, as I have already stated, were vitiated causing serious prejudice to the workmen at they never referred to any particular clauses of the list of misconduct enumerated in the Standing Order No. 25 and the basis on which the charges were framed were also not supplied to the workmen alongwith the charge because they are not found in the bound volume of documents filed by the management in this Tribunal, nor the workmen have admitted to have received the same.

33. To add to this, I find that in the case of Ashok Kumar Dey which occurs at page 799 of the bound volume of documents submitted by the management containing the relevant papers of enquiry, which shows that after receipt the enquiry report from the Enquiry Officer, a note was given by the Installation Manager, Budge Budge, recommending punishment against the workmen which on being transmitted to A.D.M., Calcutta, he also satisfied that the proper domestic enquiry having been done and accepting the report of the Installation Manager, recommending punishment, recommended the General Manager (S & D) that dismissal order need be passed, which indeed had been passed by the General Manager. This letter is dated 23 November 1984. Similar procedure has been followed in the case of S/Shri Mahesh Mondal, Sudarsan Mishra and Anil Kumar Samad-dar as is apparent from Ext. M-18. So also in respect of S/Shri Prabir Kumar Mukherjee, Panch Kari Adak and Sudhansu Roy which is apparent from Ext. M-22 and also in respect of Shri Shaikh Ramjan as is evident from Ext. M-1. All those are of the same date 23 November 1984.

34. From these it follows that the order of dismissal even though was not recommended by the Enquiry Officer had been recommended by the two intermediate officers like Installation Manager and A.D.M., which received finality by the order of the General Manager by his impugned orders of dis-

dismissal dated 24-1-1985, which are collectively marked Ext. M-23. Therefore, the disciplinary authority had actually not applied its mind independently to the recommendation of Enquiry Officer and had passed the orders of dismissal on the recommendation of the two authorities who had nothing to do with the disciplinary proceeding. Nothing has been shown by the management by referring to Standing Orders or otherwise what are the parts to play by the Installation Manager and the A.D.M. in the disciplinary proceeding when the disciplinary authority is the General Manager. If it would be assumed that the Installation Manager is the disciplinary authority, there is no ground why he did not pass his order and send the same to the A.D.M. with his recommendation. All these things vitiate the entire enquiry and the impugned order that had been passed in the case.

35. As it appears that these workmen who are fighting for their legitimate cause, according to them, wanted improvement in the condition of service, even though they were bound by the settlement dated 31-1-1982 which was in operation till 31st May 1985. If all the demands for which the strike was on, were the subject matter of the settlement, there is no statutory bar for the workmen to raise any objection regarding a fresh demand if the occasion so demanded and cannot be considered illegal because a settlement regarding their other demands are in operation. Section 23 of the Industrial Disputes Act, 1947 speaks of general prohibition of strikes and lock-outs. Section 23(c) of the same reads as follows :

"No workmen who employed in an industrial establishment shall go on strike in breach of contract and no employer of any such workmen shall declare lock-out during any period in which a settlement or award is in operation in respect of any of the matters covered by the settlement or award. (underline is made for emphasis)

36. It is the admitted case that even though the fixation or year of retirement of the workmen and the clerks which agreed upon to be 58 years under the settlement, assuming it was so, there is no clause in 31-1-83 settlement which covered the demands of the workmen regarding employment to the children of the deceased on his death. Therefore as admitted by the management in their evidence both at the enquiry and also before this Tri-

bunal, it was these demands for which the workmen were shouting and agitating and holding meetings. As the evidence would show the workmen's behaviour was not distemperate, they were not physically assaulting anybody. They simply raising their voice in support of the demand and holding meetings at the guage, before or after the work. Though latter on because of the silence of the management in not taking any positive action in their favour or to consider them in future, they had actually gone on mass leave, which might have resulted in economic loss in the establishment. Accordingly, this could not be the basis that they have been guilty of gross misconduct.

37. From the evidence on the record, it is found that all these 8 workmen are union leaders of the Petroleum Employees Union and the management has picked them up out of other workmen to proceed against them, which under the Industrial Disputes Act, 1947 would amount to unfair labour practice as per Clause 4(b) of the Fifth Schedule and this action would therefore intended to victimise the concerned workmen because they were, as admitted by the management, prime movers of this agitation and accordingly the dismissal of these workmen would amount to victimisation and as such become an unfair labour practice on the part of the management.

38. The management had examined 5 witnesses before this Tribunal from their sick, both on merit and on the validity of the enquiry, as I have already stated.

Shri Rabi Kumar, Management Witness No. 3 had stated that upto October 1983 the industrial relationship between the management and the workmen was cordial but from middle of October 1983 the trouble started. The trouble started following the demands of the workmen by putting posters and holding gate meetings for their demands to increase the year of retirement from 58 to 60, giving employment to the sons of the employees and giving employment to the contractor's employees. Even though all the employees in his plant were in agitation, the disciplinary action was taken against S. K. Ramjan and Shri Sudarshan Mishra and the other workmen, according to him, belonged to the other plants in the installation. The same was also stated by Shri V. N. Tandon MW-2 regarding the demands of the workmen and that was the reason for picketing. He also stated about the other employees who were charge-sheeted as they were the people for supporting the

emise. He also stated in his cross-examination that even there was strike by the managers and officers of the Company on 8-5-1991 and he also participated in that strike. From the evidence of other witnesses who have been examined on behalf of the management, nothing is found to contradict the statement of these management witnesses.

39. Therefore, I come to hold that the entire proceeding was vitiated as an Act of unfair labour practice. The enquiries were vitiated because of the lack of authority who initiated the proceedings. The chargesheets were utterly defactive without being specific if the alleged incidents against each of these workmen constituted misconduct within any particular paragraph or paragraphs of the Standing Order No. 25. The order dismissing the workmen though had been passed by the General Manager (S&D), the General Manager actually acted on the advice of the authorities who had no jurisdiction in law to suggest the punishment to him. The Enquiry Officer while submitting his reports, not only failed to give date, but submitted the

same to a authorities who had no authority to entertain those reports and these reports were also defective for the reasons already discussed.

40. In the result, I hold that the action of the management of B.P.C.L., Budge Budge Installation in dismissing the workmen namely S/Shri (1) Prabir Mukherjee, (2) Sudarsan Mishra, (3) Anil Samaddar, (4) Shaikh Ramjan, (5) Panch Kari Adak, (6) Sudhansu Roy, (7) Mahesh Mandal and (8) Ashok Kumar Dey from services with effect from 24-1-1985 is not justified. As a consequences of which the workmen are re-instated into their post, notwithstanding the order of dismissal and shall be entitled to all their back wages and benefits as would have been available to them, had they continued in service.

The reference is answered accordingly.

K. C. JAGADEB ROY, Presiding Officer

Dated Calcutta,

The 6th March, 1997.

नई दिल्ली, 27 मार्च, 1997

का.मा. 937.—केन्द्रीय सरकार, कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) की धारा 17 की उपधारा (3) के खंड (क) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए और भारत सरकार के अम मंत्रालय की अधिसूचना पसंख्या का.मा. 2826 दिनांक 20 सितम्बर, 1996 का अधिसूचना करते हुए, यह निदेश देती है कि उक्त अधिनियम की धारा 17 की उपधारा (1) के खंड (क) अथवा खंड (ख) के अधीन छूट प्राप्त किसी स्थापना के अथवा कर्मचारी भविष्य निधि योजना, 1952 के पैरा 27, या पैरा 27-क अथवा जैसी भी स्थिति हो के अधीन छूट प्राप्त किए किसी कर्मचारी या कर्मचारियों के वर्ग के संबंध में प्रत्येक नियोजक ऐसे स्थापना अथवा यथास्थिति ऐसे कर्मचारी या कर्मचारी वर्ग से संबंधित मासिक भविष्य निधि अभिदायों का अंतरण उस मास के समाप्त होने से 15 दिन के भीतर उस स्थापना के संबंध में समग्र रूप से गठित न्यासी बोर्ड को करेगा और उक्त न्यासी बोर्ड नियोजक से उक्त अभिदायों की प्राप्ति की तारीख से दो सप्ताह की अवधि के भीतर स्थापना अथवा यथास्थिति कर्मचारों या कर्मचारी वर्ग से संबंधित भविष्य निधि संचयन अर्थात् अभिदाय, व्याज और अन्य प्राप्तियों को किन्हीं बाध्यकर देनदारियों को कटौती करने के बाद निम्न व्यवस्था के अनुसार विनिहित करेगा अर्थात्:—

निवेश पैटर्न	निवेश किए जाने वाली राशि का प्रतिशत
1	2
(i) केन्द्रीय सरकार प्रतिभूतियां (ii) (क) किसी राज्य सरकार द्वारा सृजित और जारी की गई सरकारी प्रतिभूतियां जैसा कि लोक श्रृण अधिनियम 1994 (1994 का 18) की धारा 2 में परिभाषित किया गया है, तथा अथवा	पच्चीस प्रतिशत

(ख) ऐसी अन्य परक्राम्य प्रतिभूतियों जिनकी मूलराशि तथा उसके ब्याज को केन्द्रीय सरकार अथवा किसी राज्य सरकार द्वारा पूरी तरह से बिना शर्त गारंटी प्रदान की जाती है, उनमें निम्नलिखित (iii) (क) के अंतर्गत आने वाली प्रतिभूतियां शामिल नहीं हैं।

(iii) (क) कंपनी अधिनियम की धारा 4(क) में निविष्ट "लोक वित्तीय संस्थाओं के बांड/प्रतिभूतियां, आयकर अधिनियम, 1961 की धारा 2 36(क) में यथा परिभाषित" सरकारी क्षेत्र की कंपनियां जिनमें सार्वजनिक क्षेत्र के बैंक शामिल हैं और/अथवा चालीस प्रतिशत

(ख) सरकारी क्षेत्र के बैंकों द्वारा जारी जमा राशियों के प्रमाण पत्र

(iv) न्यासी बोर्ड द्वारा लिए गए निर्णय के अनुसार बीस प्रतिशत उपर्युक्त तीनों श्रेणियों में से किसी में भी निवेशित की जानी है।

2. पूर्ववर्ती निवेशों की परिपक्वता पर प्राप्त होने वाली धनराशियों में से आवश्यक व्यय को घटा कर शेष का इस अधिसूचना में निविष्ट नए निवेश पैटर्न के अनुसार निवेश किया जायेगा।

3. विशेष जमा योजना पर प्राप्त ब्याज को विशेष जमा योजना के अंतर्गत ही निवेश किया जायेगा। इसी प्रकार अन्य श्रेणियों के अंतर्गत प्राप्त ब्याज की धनराशि का उसी श्रेणी में फिर से निवेश किया जा सकता है।

4. उपरिलिखित पैराग्राफों में यथा परिकल्पित निवेश पैटर्न को वित्तीय वर्ष की समाप्ति तक पूरा कर लिया जायेगा तथा यह 1 अप्रैल, 1997 से प्रभावी है।

[फा.सं. जी-20015/2/93-एस.एस. II]

जे.पी. शुक्ला, अवर सचिव

New Delhi, the 27th March, 1997

S.O. 937.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 17 of the employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) and in supersession of the notification of the Government of India, Ministry of Labour No. S.O. 2826 dated the 20th September, 1996 the Central Government hereby directs that every employer in relation to an establishment exempted under clause (a) or clause (b) of sub-section (i) of Section 17 of the said Act or in relation to any employee or class of employees exempted under paragraph 27, or as the case may be, paragraph 27 A of the Employees' Provident Funds Scheme, 1952 shall transfer the monthly provident fund contributions in respect of the establishment or, as the case may be of the employee or class of employees within fifteen days of the close of the month to the Board of Trustees duly constituted in respect of that establishment, and that the said Board of Trustees shall invest every month within a period of two weeks from the date of receipt of the said contributions from the employee, the provident fund accumulations in respect of the establishment or as the case may be, of the employee, or class of employees that is to say, the contributions, interest and other receipts as reduced by any obligatory outgoings, in accordance with the following pattern, namely :—

Investment Pattern	Percentage of Amount to be Invested
1	2
(i) Central Government Securities	Twenty Five percent.
(ii)(a) Government Securities as defined in Section 2 of the Public Debt Act, 1944 (18) of 1944) created and issued by any State Government, and/or	Fifteen percent.

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| (b) Any other negotiable securities principal whereof and interest whereon is fully and unconditionally guaranteed by the Central Government or any State Government except those covered under (iii) (a) below. | |
| (iii)(a) Bonds/Securities of 'Public' Financial institutions' as specified under Section 4 (a) of the Companies Act, "public sector Companies "as defined in section 2(36-A) of the Income Tax Act, 1961, including public sector banks and/or | Forty percent. |
| (b) Certificates of deposits issued by public sector banks. | |
| (iv) To be invested in any of the above three categories as decided by the Board of Trustees. | Twenty percent |
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2. Any moneys received on the maturity of earlier investments reduced by obligatory outgoings, shall be invested in accordance with the investment pattern prescribed in this Notification.

3. Interest received on the Special Deposit Scheme shall be invested in the Special Deposit Scheme itself. Similarly, interest received under other categories shall be re-invested in the same category.

4. The investment pattern as envisaged in the preceding paragraphs may be achieved by the end of a financial year and is effective from 1st April, 1997.

[F. No. G-20015/2/93-SS II]
J. P. SHUKLA, Under Secy.